PSSRU
at the University of Kent,
the London School of Economics
and the University of Manchester

PSSRU Research Summary 26

# Closures of Care Homes for Older People

## Summary of Findings, No. 2
## Local government guidelines
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## INTRODUCTION

This summary reports the prevalence and content of council guidelines for managing the closure of independent care homes for older people. The research was part of a wider project investigating the causes, process and consequences of home closures, funded by the Department of Health.

How the closure and relocation process is managed is likely to affect the level of any risk to residents' health, safety and emotional well-being, so it is important to identify what is already known about managing a home closure and what approaches, policies and procedures are recommended.

The process is likely to involve social services departments, the home owner and their staff, the residents, their relatives and/or informal carers and possibly other councils and agencies working together to help residents move to suitable alternative homes.

## RESEARCH AIMS AND METHOD

We wanted to identify:

- The extent to which councils had guidelines for managing the closure of care homes;
- The aims and objectives of any guidelines;
- How roles and responsibilities were allocated;
- Recommended approaches, policies and procedures.

In 2002 all councils in England were asked if they had a protocol, and if so to send a copy. Councils with 100 or more independent residential or dual registered care homes were contacted twice since they were most likely to have experienced closures and to have put plans in place.

## LEGAL AND POLICY CONTEXT

Registration regulations, introduced under the Care Standards Act 2000, legally require providers to:

- Apply to the National Care Standards Commission (NCSC) to close, three months before the proposed closure date (Regulation 15 [2]);
- Notify service users no more than seven days later (Regulation 15 [3]).

The National Minimum Care Standards also state that providers should:

- Give residents a statement of terms and conditions or a written contract, which includes the notice period (Standard 2);
- Offer prospective residents the opportunity to visit new homes and to move in on a trial basis (Standard 5).

There is no law or statutory guidance aimed specifically at the closure of independent care homes. However, in 1993 the Department of Health advised authorities to draw up plans so that home closures or resident eviction can be handled effectively (LAC (93)6). Since the guidance was issued under section 7 of the 1970 Local Authority Social Services Act it carries the force of law.

## THE RESEARCH TEAM

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More recently a Health Service Circular provided detailed guidance about how to move older patients after hospital or long stay ward closure (1998/048). *Building Capacity and Partnership in Care* also stated that, if services have to be withdrawn, councils should work with independent providers to manage closures in a planned way (2001).

Councils' responsibility to assess vulnerable people and, if certain criteria are met, to arrange admission to their preferred accommodation applies during a home closure just as it does in general. The extent to which councils are obliged to re-assess or review the needs of self-funded residents who arranged their own care home place, or indeed publicly funded residents, however, is unclear, as is the extent of their power to help self-funded residents.

The Human Rights Act has been used in a number of legal challenges to decisions to close local authority run care homes. However, the Act applies to public authorities and to date independent care homes have been judged as outside the definition of public authority.

## PREVALENCE OF GUIDELINES

Sixty-eight per cent of the 70 councils with over 100 care homes in their area responded to our enquiry. 62% of these 48 responding councils said that they had a protocol/guideline and 37% said that they did not. A further seven authorities with less than 100 homes in their area responded. All seven said they had closure guidelines. In total a third of councils in England (55) indicated whether they had a protocol and of these responding councils just under two thirds said that they had written guidelines.

Thirty-three guidelines were received and reviewed: 26 guidelines from councils with over 100 care homes and a further seven guidelines from councils with fewer homes. The analysis focused mainly on 27 guidelines. These covered voluntary closures (13) or voluntary and emergency closures (14) and included 22 guidelines from councils with over 100 care homes and five from councils with fewer homes. Six covered either emergency closures or council run home closures only.

## NATURE AND SCOPE OF GUIDELINES

The guidelines varied in scope, date, audience and length. About half covered both voluntary and emergency closures. Ten had been agreed jointly between health and social services. Dates ranged from 1994 to 2002. Some were drafts. Some were for a single audience, others for multiple audiences. Length varied from one to 71 pages. A third were two to six pages. Five were checklists and a further 14 included checklists.

Less than a third of the guidelines outlined aims and objectives. About half highlighted principles of good practice such as protecting service users' welfare, maximizing choice and minimising distress. Few considered measures to prevent closures; most focused on actions to be taken after notification.

## LEGAL ISSUES

Just under half of the guidelines highlighted legal issues. These included:

- Councils could not expect registration and inspection unit staff to alert them about concerns they might have about the financial viability of a home;
- Councils do not have the power to move residents against their will;
- The registered person must give permission for records about residents to be moved;
- Council staff must not 'meddle' with the running of an independent home.

Advice differed about whether councils could pay existing care home staff or provide new staff to keep a home running for as long as possible. One guideline said it was not possible because it would make the council responsible for the care provided at the home and require registering a temporary manager, which could not be done. In contrast two protocols said it was possible to pay or to provide staff.

## ALLOCATION OF RESPONSIBILITY

The allocation of overall responsibility varied and included a co-ordinating task group, the registration and inspection unit and a district manager in social services. Responsibility for

particular tasks also varied. For example, helping residents find new places was generally the responsibility of care managers but four guidelines said the person in charge of the home was responsible. Approaches to assigning care managers to closures included allocating: care managers who had assessed the residents before admission; an existing specialist team, such as a review team; a temporary team.

## NOTICE

A quarter of the guidelines referred to the length of notice proprietors should give councils. A month or as much notice as possible was most commonly recommended. Recommendations about how residents and relatives should be notified varied and included:

- The form of notification should be discussed by social services staff with the proprietors;
- Staff from social services and registration and inspection should be present;
- Residents and/or relatives should be told as a group;
- The form of resident notification should be decided on an individual basis;
- Proprietors are responsible for resident notification;
- Care managers might have to tell residents if they have not been told;
- Residents should be notified in writing, not just told verbally.

## ASSESSMENT OF RESIDENTS' NEEDS AND HELP WITH ARRANGEMENTS

Councils approaches to assessing residents' needs varied in terms of whether:

- Assessments were to be offered to all service users, or only to those whose needs had changed;
- Assessments were to be offered to all residents, or only to publicly funded residents.

Approaches to providing help to self-funding service users also varied. Some guidelines recommended offering assistance to all residents and/or relatives. Others said that help would only be offered to self-funded residents without relatives or to those who were unable to find accommodation unaided.

## INFORMATION ABOUT VACANCIES

The guidelines referred to providing residents and/or relatives with lists of care homes, home brochures and/or inspection reports. Little was said about ensuring the quality or usefulness of this information.

About a third of the guidelines suggested how care managers might find vacancies. Some councils had a vacancy list. Others suggested care managers ask the contract department or phone homes.

Four protocols recommended that residents be given the opportunity to visit potential new homes.

## TEMPORARY MOVES

Few guidelines commented on temporary moves. Those that did offered different advice. One suggested that temporary moves be arranged to allow residents to move out and wait until there is a vacancy at their preferred home. Another protocol described temporary moves as an option during emergency closures when time is likely to be short. Another advised that placements be permanent.

## RESIDENT PREPARATION

Few guidelines discussed how residents might be prepared for the move other than making sure residents had been told. Only one protocol referred to the value of having residents visit a chosen home to become familiar with the new people and surroundings.

## INVOLVING CARE HOME STAFF

Care managers were recommended to involve care home staff in about a third of the guidelines: to ask them to help, perhaps to record 'pen pictures' of residents for the new home, to keep them informed of arrangements, to respect their relationships and to allow staff to say goodbye to residents.

## MOVING ARRANGEMENTS

Opinion differed about whether residents should ideally be moved in a short space of time or gradually over more than a week. Practical recommendations included: relatives should be asked to be present; evening and weekend moves and the use of taxis should be avoided.

## PLACEMENT REVIEW AND PROCESS EVALUATION

Plans for reviewing residents in their new home rarely said whether all residents would be reviewed or only publicly funded residents. A minority planned to debrief care managers or to evaluate the process.

## IMPLICATIONS OF FINDINGS

The range of responsibilities and procedures described in the guidelines suggests that guidelines are clearly needed if councils are to respond efficiently and effectively to home closures. Systems and plans need to be flexible so that staff can respond to different causes of closure, local circumstances and individual need. At the same time it would be sensible for certain procedures and responsibilities to be standardised across the country to ensure fair access to help and services. The variation in procedures was considerable, and some recommendations were contradictory.

It would be useful to establish which actions or measures are essential to successfully supporting residents and their families and/or carers, to safeguarding residents' health and safety, and to promoting collaboration between councils, residents and their relatives and home owners and their staff.

The extent to which a council can influence how an independent care home provider closes a home is unclear. It is also unclear whether the new requirements for notice of closure are practicable or enforceable by the National Care Standards Commission. There is a need to clarify councils' responsibilities and duties during a care home closure and the legal constraints on their actions.

### Further Information

This summary and the full report are on the PSSRU website: www.PSSRU.ac.uk

- Jacquetta Williams and Ann Netten (2003) Guidelines for the closure of care homes for older people: prevalence and content of local government protocols (DP 1861/2)

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The **PERSONAL SOCIAL SERVICES RESEARCH UNIT** undertakes social and health care research, supported mainly by the Department of Health, and focusing particularly on policy research and analysis of equity and efficiency in community care, long-term care and related areas — including services for elderly people, people with mental health problems and children in care. The PSSRU was established at the University of Kent in 1974, and from 1996 it has operated from three branches:

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