



THE MEDICAL EVIDENCE...

EPIC's reading of the medical evidence is that moves made en bloc with the same nursing staff are much safer than those where residents and staff are disseminated. The latter type of move involves grave risks which can be partially alleviated, but not eliminated, by very careful preparation.

Relocation of the Aged and Disabled - A Mortality Study, Aldrich & Mendkoff, *J. Am. Geriatr. Soc.* 185 - 194 1963...

This study attempted to find (inter alia) whether relocation affects the death rate of the elderly, whether the anticipation of moving affects the death rate, and whether the patients psychological adjustment affects their chances of survival. There was no statistically effect of anticipation of moving on mortality, there was a marked increase in mortality after relocation concentrated in the first three months; the patients who were genuinely passive or overtly angry survived best, helpless and psychotic or near psychotic patients had the highest death rates in the first year after relocation.

The Mortality of Long Stay Patients Following Interhospital Relocation, Morriss, Bowie & Spencer, *British Journal of Psychiatry* Vol 152 page 705 - 706 (1988)...

The aim of this study is to investigate mortality of relocated elderly psychiatric patients. In this case the patients were carefully prepared for moving and then moved over a two year period. They were moved to two different locations. They mostly moved in small groups with the same staff and patients. In this case the move was safe. An alternative explanation is that the patients had been moved before and those particularly susceptible may have already perished. The study says that further research is needed into patient characteristics and environmental change may affect the outcome.

Relocation Mortality in Dementia: The Effects of a New Hospital, Robertson, Warrington & Eagles, *International Journal of Geriatric Psychology*, Vol. 8 page 521 - 525 (1993)...

This was a study in relocation mortality in demented elderly patients, where some were transferred en masse, and others individually. The mortality was

significantly increased amongst the patients who had been moved sporadically, but about the same for those moved en masse with the same nursing staff.

The Effects of Relocation on Elderly People with Dementia and Their Nursing Staff, McAuslane and Sperlinger, *International Journal of Geriatric Psychiatry*, Vol. 9 page 981 - 984 (1994)...

Nineteen elderly people with dementia were relocated en masse with their nursing staff. This was a safe move. Moving patients and staff together may have helped to minimise the impact of the move. Their furniture and belongings were moved with them.

Partnership Nursing Home Care for Dementia: The Glasgow Experience - the First Twelve Weeks, *International Journal of Geriatric Psychiatry*, Vol. 10 page 557 - 560 (1995)...

A case of sixty elderly people with dementia moving from hospital to nursing home care - studies at six and twelve weeks respectively. An increase in mortality at six weeks did not reach statistical significance, but a greater decline in functional ability and a significant increase in pressure sores occurred compared to the control group. "At risk" patients were excluded from the transfer list. Further follow-ups were planned at six months and twelve months, but are not available.

Relocation Stress Syndrome: A Comprehensive Plan for Long Term Care Admissions, Manion & Rantz, *Geriatric Nursing*, (May/June 1995)...

The effects of transfer on the elderly, including anxiety, apprehension, increased confusion, depression and loneliness. The importance of identifying "at risk" people. Unstable physical / medical conditions given special attention. Ways to minimise the risk.

Can Elderly Residents with Memory Problems Be Prepared for Relocation? Dickenson, *Journal of Clinical Nursing* 5: 99 - 104 1996...

The greater the difference between the two environments the poorer the outcome. Involuntary moves tend to result in adverse reactions. The most vulnerable are the very old and those with impaired physical or mental health and those with cognitive deficits. In order to be prepared patients must be able to retain recollection of impending transfer and the severely impaired cannot do so. Of those able to be prepared unreasonable expectations were reassured and where worries were realistic they were encouraged to be expressed and were acknowledged.

Your Ref: MC.BMB.C358/04
Our Ref: KSK/22552/Care Home Closures
Please ask for: Mr. Kasbia
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By Fax (01536 516820) & Post

Dear Ms Hossack,

Re: Letter before Claim
Decision to close Care Homes taken on the 10th April 2008

I write further to recent correspondence in respect of the above matter.

I am instructed on behalf of Nottinghamshire County Council ("the Council") to respond to your letter of claim and also to accept service in the event that you submit an application for Judicial Review.

All correspondence in relation to this matter should be forwarded to Mr K Kasbia, Solicitor, For the Head of Law & Democracy, Legal Services, Nottinghamshire County Council, Centenary House, 1 Wilford Lane, West Bridgford, Nottingham NG2 7QZ quoting reference number KSK/22552/Care Home Closures.

You advise in your letter that you act for a number of the residents in Kirklands, Daleside, Ashcroft and Beauvale Court who are affected by the decision taken by the Council on 10th April 2008, although you have not identified who these residents are. You have also indicated that if it does become necessary for you to issue an application for Judicial Review then only one of your clients will act as a representative Claimant. It is most unusual for you to propose to bring a claim against the Council but not identify on whose behalf that claim is to be brought. I would request that you provide details of the residents you represent and in particular the full details of the proposed representative Claimant by return.

The decision taken by the Council on the 10th April 2008 followed a long and detailed process of reviewing the overall strategic direction for Council residential care homes for older people and for extra care services. As you will be aware from the report prepared for the Council Meeting, there was an extensive 3 month consultation exercise undertaken involving over 2500 people and a number of proposals were considered. The decision of the Council was as follows:



district (e.g. Jubilee Court and Maun View). Clearly it is difficult to predict the exact number of places required at this stage.

3. Residents and staff will be given a choice where it is practical and possible to do so as to where they wish to reside and work. Where residents are required to move in the future, the relocation of residents will be undertaken extremely sensitively and over a period of time, looking at their individual needs and maximising the choices for the future available to them. This process will of course involve the relevant family members and advocates as appropriate. Staff will have the support and assistance of HR staff and trade unions through the process so that they too can choose the most appropriate option for their future career.
4. There will be a planned and managed move of residents under the guidance and leadership of highly experienced staff who have been involved in many successful home closures over a number of years. The Council will give due consideration to the use of a consultant in the psychiatry of old age to oversee the process.
5. To reiterate, an assurance has already been given that no homes will be closed until suitable alternatives are available in a similar location. No resident will be moved until their needs have been identified and an appropriate placement found. The Council has a very good track record of moving residents which has been commended by the National Care Homes Association.

Beauvale Court

In the Borough of Broxtowe, the decision has been taken to close Beauvale Court. There is already a new build home in the same district (Bramwell) and there is also the new build home at Jubilee Court which is 3 miles away in Hucknall. In addition to this it is proposed to develop extra care on the site at the rear of Beauvale Court providing up to 50 units.

Until the suitable alternative provision in the geographical area has been determined, it is impossible to comment on whether there will be a transfer of residents and staff as a whole group or not and of course this would be subject to individual preference and choice. As stated before, no homes will be closed until suitable alternatives are available in a similar location.

The Council does not consider that the decision to close Beauvale Court is irrational and unlawful. It has gone through an extensive review process and period of consultation and determined that Beauvale Court should close. In response to your specific points, the Council would say as follows:

- i) It is not accepted that the only safe way of involuntary transfer is by moving residents and staff as a whole group. The Council has considerable experience gained over a number of years dealing with home closures within the County. As stated before, the National Care Homes Association commended the Council for its track record in handling these matters with care and sensitivity.

The Council will give consideration to managing capacity of available beds in our own homes by looking at short term/respice care beds. We have the capacity to facilitate this in Bramwell and Jubilee Court.

It is unclear what is meant by this. The Council has said consistently that this process will be difficult and complex and will need to be handled with care and sensitivity. Members of the Council thoroughly debated the issue of closure of care homes and determined that as part of its strategic direction, some homes should close. The Council has undertaken a Service Diversity Review which includes the Impact of Disability. The Council is fully aware of the potential risks associated with home closures and the resultant action plans will ensure that risks are identified and managed at each stage of the closure and de-commissioning process.

The Council are fully aware of their obligations under equality legislation and the need to have an equality scheme. One of the specific requirements of an equality scheme is to assess our services, functions and policies to ensure they are delivered fairly. The Council do this by carrying out Service Diversity Reviews (or impact assessments). Each service will be assessed for how well we are complying with good race, gender and disability equality practice. At the same time we will also consider how we are complying with good equality practice in relation to sexual orientation, religion and belief, age and social exclusion. The Council has stated that all future service developments must ensure that the diverse needs of the community are appropriately provided for and a commitment was given that a Service Diversity Review will be undertaken in this area.

The Council consider that extra care housing can be a real alternative to residential care for many people. The Council have a number of people who have transferred from residential care to extra care housing successfully. Responses to the consultation suggest that there is a significant interest and desire to have extra care housing. Out of a Mori poll of 1200 people, 78% wanted extra care housing and the benefits that came with it including greater independence, both physically and financially. Although the Council view extra care housing as the way forward, every effort has been made to accommodate current residents' needs and wishes. The Council has made a commitment to ensure that there is at least one Local Authority owned and run residential home in each District/Borough despite increasing independent sector provision.

Care homes are not being closed to fund extra care. To the contrary, the Council is investing an additional £19 million capital plus an extra £800,000 on an annual basis to ensure there is suitable provision and choice available to residents. We do not envisage that oversight and supervision provided in an extra care setting will be materially different to that afforded to residents in care homes. Dependent on their identified needs, residents would be able to have access to care and support 24 hours a day if required. Provision will be tailored to meet their individual requirements.

- vi) The Council was unaware that the recent House of Lords decision in relation to the transfer from public sector to private sector has been referred to the ECHR. However, in any event the state of the law as it stands today is as outlined in the House of Lords decision referred to in the report to Council.

General Points

For you to suggest that 'strenuous' efforts were made to defer the decision regarding Beauvale Court for 4 weeks is an overstatement. Despite the availability of the Council Report for at least a week prior to the matter going to full Council, we were not contacted by you until the morning before the matter was to be considered by the Council. After considering the full circumstances of the matter, you were advised on the same day that this would not be possible and that the report would be presented to Council as previously arranged.

We do not see any benefits of litigating this matter, and wish to work with you and all interested parties to progress the Council's plans as efficiently and effectively as possible. Clearly it is in the interest of the residents that this matter is handled with care and sensitivity and commencing legal proceedings and litigating this issue can only be detrimental for them.

The Council was prepared to meet with you prior to the decision being taken to close homes and remain happy to meet with you and give you the opportunity to raise any concerns you may still have directly with us. This will also give us an opportunity to reassure you and your clients that our proposals will be put into effect in a sensitive and appropriate manner with due regard to residents needs and wishes.

A meeting can be arranged between yourself, senior managers from Adult Social Care and Health and myself should you so wish. I would be only too glad to arrange this at the earliest opportunity.

Should you require any further information, please do not hesitate to contact me.

Yours sincerely



Mr K Kasbia, Solicitor
For the Head of Law and Democracy