

**Meeting of the Cabinet**

**7<sup>th</sup> December 2011**

**New Bradley Hall Residential Care Home – Proposed Consultation**

**Report of the Director of Adult, Community and Housing Services**

**Purpose of Report**

1. For Cabinet to endorse the resolution of Council on 28<sup>th</sup> November 2011 to set aside the decision of Cabinet on the 14<sup>th</sup> September 2011 to close New Bradley Hall Residential Care Home.
2. For Cabinet to agree the proposed consultation process, in respect of the future of New Bradley Hall Residential Care Home.

**Background**

**New Bradley Hall Residential Care Home**

3. At the meeting of the Council on the 28<sup>th</sup> November 2011, the Leader proposed a motion “that the Cabinet decision made at its meeting of the 14<sup>th</sup> September 2011, in so far as it relates to New Bradley Hall Residential Care Home be set aside pending a further report to Cabinet”. The Council approved this motion.
4. The issue of the future of New Bradley Hall Residential Care Home will be looked at afresh, albeit with the benefit of such previous decisions, consultations and information as the Council had made, been involved in or gathered in relation to the provision of residential care for the elderly prior to the 14<sup>th</sup> September 2011. In looking afresh at the question of possible closure of New Bradley Hall Residential Care Home, Cabinet will do so without regard to its previous decision and on the basis that the proposal is at a formative stage. A consultation exercise will be undertaken at a time when proposals are still at a formative stage and will include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response. The consultation will provide adequate time for this purpose; and the outcome of consultation will be conscientiously taken into account when the ultimate decision is taken.

Cabinet will also have full and careful regard to its public sector equality duties, and will have full regard to all relevant matters arising during the course of the consultation exercise.

5. The Council will not prejudge the outcome of the consultation exercise. Nonetheless it is keenly aware that any decision to close a home would be liable to result in stress and a wide range of concerns for the residents and for family. If a decision was made to close the home, no one would be moved out without there being an assessment of their needs and a care plan addressing all or any risks and needs arising out of any proposed move. The Association of Directors of Adult Social Services (ADASS) recently commissioned the University of Birmingham's Health Services Management Centre to produce a good practice guide aimed at helping local councils re-assess and resettle older people in care homes when they close. The guide stresses the importance of not making rushed decisions, offering practical advice on managing closures and providing a series of helpful checklists.
6. The consultation exercise will include the residents of New Bradley Hall Residential Care Home, their families and carers; and key stakeholders

### **Finance**

7. The proposed arrangements are in accordance with the 2011/2014 three year strategy for the Directorate.

### **Law**

8. Most service users are provided with a service pursuant to section 21 of the National Assistance Act 1948. By reason of age or one or more of the other reasons listed in section 21, they have an unmet need for care and attention not otherwise available. Section 21 does not extend to a duty to provide accommodation in any particular establishment and where a decision to close care homes had been taken, there is no legal requirement to undertake individual assessments before that decision was made, as opposed to after it was made but before the transfer of residents took place.
9. Consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken. Consideration will also be given to the developing case law in this area including, not only, the recent Birmingham City Council decision but also the recent Isle of Wight decision, when making any recommendation to the Cabinet.
10. The Equalities Act 2010 creates a new public sector equality duty, which came into force from 5 April 2011. This consists of a general equality duty, which has three objectives, to:
  - eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Act;
  - advance equality of opportunity between people who share a characteristic and those who don't;
  - foster good relations between people who share a characteristic and those who don't.

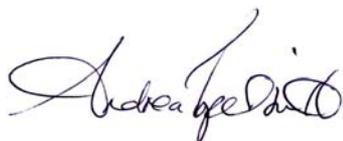
The new Equality Duty covers the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

### **Equality Impact**

11. The Initial Equality Impact Assessment in relation to New Bradley Hall Residential Care Home is appended to this report (see Appendix 1). The Equality Impact Assessment will be reviewed during the course of the consultation exercise.

### **Recommendation**

12. That Cabinet endorse the resolution of Council on 28<sup>th</sup> November 2011 to set aside Cabinet's earlier decision in respect of the closure of New Bradley Hall Residential Care Home.
13. That the proposed consultation process in respect of the future of New Bradley Hall Residential Care Home is agreed with a report back to Cabinet in July 2012.



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**Andrea Pope-Smith,**

**Director, Adult, Community and Housing Services**

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## Appendix 1. Equality Impact Assessment



### Initial assessment or screening

**Name of policy, service or decision:** The re-location of care home provision currently at New Bradley Hall Residential Care Home

**Lead directorate:** The Directorate of Adult, Community and Housing Services

1. Description – what is being assessed?	
The impact of the re-location of care home provision from New Bradley Hall Residential Care Home	
The impact on staff	
The impact on residents.	
2. Lead officer on assessment: Maggie Venables	
3. Head of service: Brian Nesbitt	
4. Members of assessment team:	
Older People/Physical Disability Divisional Management Group	
5. What are the main issues relating to each protected characteristic? Consider all three parts of the public sector equality duty:	
<ul style="list-style-type: none"> <li>• eliminating discrimination, harassment and victimisation,</li> <li>• advancing equality of opportunity, and</li> <li>• fostering good relations</li> </ul>	
<b>Protected characteristic</b>	<b>Issues</b>
All protected characteristics	Care Home services are provided to all eligible residents of Dudley MBC regardless of all the protected characteristics.
Age	<p>Care Home services at New Bradley Hall are provided to eligible adults aged 65+. The Council has contracts with forty private care homes with competitive charges that will be able to accommodate people who require full-time care. The new Extra Care Housing Schemes are an alternative provision for those people who would like to live more independently.</p> <p>Due to the nature of severance payments and current pension provision, volunteers of redundancy are more likely to be over 55. Those below the age of 55 are not eligible for access to their pension thus making voluntary redundancy a less attractive option.</p>

	<p>In terms of compulsory redundancies there may be an adverse impact on the remaining older employees being made redundant, as they may find it more difficult to secure employment outside of the Council than younger employees, despite published age discrimination law. However, information from job search and support agencies working with the Council have confirmed that a number of companies (in particular the retail sector) are promoting their employment of the older workforce.</p>
Disability	<p>There are a number of disabled residents at New Bradley Hall. Any new provision will be able to accommodate their needs.</p> <p>None of the staff currently employed at New Bradley Hall have disclosed that they have a disability under the Equality Act 2010. All of the employees are recorded as not disabled therefore no impact can be seen for this particular equality strand.</p>
Gender reassignment	<p>Care Home services at New Bradley Hall are provided to all eligible adults aged 65+. Any residents who have had gender reassignment are eligible to an equal service both at New Bradley Hall and within the private sector.</p> <p>No data has been collated on transgender employees.</p>
Pregnancy or maternity	<p>Pregnancy or maternity is not an issue with the people resident at New Bradley Hall.</p> <p>Any women on maternity leave receive enhanced protected status and this is recognised when considering selection pools, redeployment and bumping opportunities.</p>
Race	<p>Although we have had a number of residents from various ethnic minorities, these numbers have been very small and the use of the services by this group is unlikely to be affected. Should a resident choose a home based on their ethnic origin, the Council would look to contract with the preferred home.</p> <p>Little impact can be seen on employees with regard to their ethnic origin.</p>

Religion or belief	<p>It is an expectation in all care homes that they cater for religious beliefs. Should a resident choose a home based on their religion or belief, the Council would look to contract with the preferred home.</p> <p>Little impact can be seen on employees with regard to their religion or belief. The majority of employees at New Bradley Hall are Christian. There appears to be little impact on any other religious group, as the remaining employees have chosen not to disclose their religion.</p>
Sex	All residential care homes accommodate people's sexual choices as appropriate.
Sexual Orientation	<p>a) Data on sexual orientation is not currently collected by the Council, however following the 2011 census it has been agreed to request this data in future e.g. as part of customer consultation / feedback exercises.</p> <p>b) Workforce statistics relating to sexual orientation have only recently started to be collected by the Council so there is no usable data currently available on this particular equality strand.</p>
<p>6. Outline any information, such as from monitoring, consultation feedback or complaints, which indicates a differential impact on particular protected groups.</p> <p>There are systems in place to monitor age, disability, ethnicity, gender and religion or belief. The Council does not currently record sexual orientation or gender realignment.</p> <p>The consultation process will be comprehensive and will record any differential impact on particular protected groups.</p> <p>Complaints are dealt with on an individual basis following the complaints procedure.</p>	
<p><b>Conclusions</b></p>	
<p>7. On the basis of sections 5 and 6, is an equality impact assessment required? Provide a justification for your answer.</p> <p>An equality impact is required to ensure there are no adverse impacts for people moving from New Bradley Hall, or on the staff affected.</p>	
<p>8. (a) If no, list any actions identified:</p> <p>(b) If yes, what priority do you assign to the EIA (high, medium, low) and</p>	

why?

This is high priority due to the vulnerability of people using the service.

Signed assessment lead officer: Maggie Venables

Date: 02.12.11

Signed head of service: Brian Nesbitt

Date: 02.12.11

**Equality impact assessment**

**Name of policy, service or decision:** The re-location of care home provision currently at New Bradley Hall

**Lead directorate:** The Directorate of Adult, Community and Housing Services

<p>1. Description – what is being assessed?</p> <p>The impact of the re-location of care home provision from New Bradley Hall.</p> <p>The impact on staff.</p> <p>The impact on residents.</p>
<p>2. Lead officer on assessment: Maggie Venables</p>
<p>3. Head of service: Brian Nesbitt</p>
<p>4. Members of assessment team:</p> <p>Older People/Physical Disability Divisional Management Group.</p>
<p>5. Date assessment began: September 2011</p>
<p><b>Background</b></p>
<p>6. What are the aims and objectives or purposes of the policy or function/service?</p> <p>New Bradley Hall is a Council owned and managed residential care home for people aged 65 plus. In line with a redesign of care home provision, it is proposed that people currently resident in New Bradley Hall will be supported to relocate to other suitable provision. New Bradley Hall will then close.</p> <p>This equality impact assessment examines the impact on current residents and staff.</p>
<p>7. Who is it intended to affect or benefit (the target population)?</p> <p>People currently resident in New Bradley Hall.</p> <p>Staff employed at New Bradley Hall.</p>
<p>8. What are the main issues relating to each protected characteristic?</p> <p>Consider all three parts of the public sector equality duty:</p> <ul style="list-style-type: none"> <li>• eliminating discrimination, harassment and victimisation,</li> <li>• advancing equality of opportunity, and</li> </ul>

<ul style="list-style-type: none"> <li>fostering good relations</li> </ul>	
All protected characteristics	Care Home services are provided to all eligible residents of Dudley MBC regardless of all the protected characteristics.
Age	<p>Care Home services at New Bradley Hall are provided to eligible adults aged 65+. The Council has contracts with forty private care homes with competitive charges that will be able to accommodate people who require full-time care. The new Extra Care Housing Schemes are an alternative provision for those people who would like to live more independently.</p> <p>Due to the nature of severance payments and current pension provision, volunteers of redundancy are more likely to be over 55. Those below the age of 55 are not eligible for access to their pension thus making voluntary redundancy a less attractive option.</p> <p>In terms of compulsory redundancies there may be an adverse impact on the remaining older employees being made redundant, as they may find it more difficult to secure employment outside of the Council than younger employees, despite published age discrimination law. However, information from job search and support agencies working with the Council have confirmed that a number of companies (in particular the retail sector) are promoting their employment of the older workforce.</p>
Disability	<p>There are a number of disabled residents at New Bradley Hall. Any new provision will be able to accommodate their needs.</p> <p>None of the staff currently employed at New Bradley Hall have disclosed that they have a disability under the Equality Act 2010. All of the employees are recorded as not disabled therefore no impact can be seen for this particular equality strand.</p>
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Pregnancy or maternity	<p>Pregnancy or maternity is not an issue with the people resident at New Bradley Hall.</p> <p>Any women on maternity leave receive enhanced protected status and this is recognised when considering selection pools, redeployment and bumping opportunities.</p>

Race	<p>Although we have had a number of residents of ethnic origin, these numbers have been very small and the use of the services by this group is unlikely to be affected. Should a resident choose a home based on their ethnic origin, the Council would look to contract with the preferred home.</p> <p>Little impact can be seen on employees with regard to their ethnic origin.</p>
Religion or belief	<p>It is an expectation in all care homes that they cater for religious beliefs. Should a resident choose a home based on their religion or belief, the Council would look to contract with the preferred home.</p> <p>Little impact can be seen on employees with regard to their religion or belief. The majority of employees at New Bradley Hall are Christian. There appears to be little impact on any other religious group, as the remaining employees have chosen not to disclose their religion.</p>
Sex	All residential care homes accommodate people's sexual choices as appropriate.
Sexual Orientation	<p>a) Data on sexual orientation is not currently collected by the Council, however following the 2011 census it has been agreed to request this data in future e.g. as part of customer consultation / feedback exercises.</p> <p>b) Workforce statistics relating to sexual orientation have only recently started to be collected by the Council so there is no usable data currently available on this particular equality strand.</p>

**Stage 1 – evidence gathering**

Provide details of all information about the policy, service or decision which will help with the assessment. Use the headings below as reminders of what may be useful, although this not an exhaustive list.

**Equality monitoring data:**

What systems are in place to monitor current and future impact for each protected characteristic? What monitoring data is collected for each of the protected characteristics? Set out details of this data.

There are currently 21 female and 9 male residents at New Bradley Hall. The average age for female is 90.6. The oldest is 104 and the youngest is 71.

The average age for male is 80.5. The oldest is 96 and the youngest is 68.

The overall average age is 88 Years.

The Directorate does not collect data in relation to gender reassignment or the sexual orientation of people who use services.

People who use care home services receive a review of their care and their care needs annually.

There is an agreed complaints procedure.

Approved care home providers are monitored for contract compliance annually. All are registered with the Care Quality Commission.

### **Engagement and customer feedback:**

Some consultation has been done already e.g. meetings by relevant managers with residents and carers and discussion at Cabinet and full Council on two occasions. This has resulted in a motion to Council by the Leader to pause the process to give even more time for further consultation with all stakeholder but especially with the best interests of those living in the home at heart.

### **Barriers to access:**

To minimise barriers to access, advocacy services will be used to support residents during the next phase of consultation. Four residents have already taken up this opportunity.

### **Information about the borough e.g. Census data:**

The total population of Dudley is 305,155. People over 60 account for 22.2% of the total population. People over 80 account for 4%, this compares to 3.2% in 1991. The UK population aged over 85 is projected to rise almost threefold from 2.0% of the population in 2006 to 7.1% of the population by 2071.

### **Background or comparative information:**

Data is collected through the data system and reports are produced that show the make-up of the residential population. There are processes in place at each home to gather feedback and comment from people using the services through residents' forums and anonymous questionnaires.

- a) Our strategy, *Ageing Well - A Strategy for Older People 2010 – 2013* (pp3-4) provides significant information which is helpful to our assessment as follows:
  - a. 240,279 adults live in Dudley of whom 74,526 are aged over 60.
  - b. Population in Dudley over 65 has grown from 50,980 in 2001 to 55,026 in 2008. In percentage terms an increase from 16.7% to 18%.
  - c. In 2007 BME community members of pensionable age numbered around 1,600, almost 3% of Dudley's pensioners. (Mid year population estimates, Office for National Statistics (ONS)).
  - d. Population forecasts for Dudley indicate that people aged over 65 will exceed 60,000 by 2013, 70,000 by 2026 and by 2030 will exceed

75,000. This would equate to 23.4% of Dudley's population. (2006 Based sub national population trends, (ONS)).

- e. In terms of services DACHS provides 801 residential places, 169 Nursing Home placements, and 1900+ Home care support packages

The policy context has been to support people within their own homes first of all for as long as they want and it is safe to do so. Where people need some kind of residential or nursing service, there has been a wide range of provision in the Borough and in the vicinity from both the public sector and independent sector which provides the vast majority of residential care in the locality.

There are currently 21 female and 9 male residents at New Bradley Hall. The average age for female is 90.6. The oldest is 104 and the youngest is 71.

The average age for male is 80.5. The oldest is 96 and the youngest is 68.

The overall average age is 88 Years.

The average length of stay at New Bradley Hall is 3.07 years, with a maximum of 18 years and minimum of 8 months.

#### **What evidence is missing? What will be done to collect it?**

The impact on change for current residents of New Bradley Hall will be monitored and collected.

#### **Stage 2 – data analysis**

Provide details of the analysis completed on the information presented at stage 1 above, identify patterns or trends and compare with other authorities, national research, census data, etc.

An analysis has been undertaken on the lengths of stay following the closure of three previous care homes in the Borough.

This has looked at the length of stay for people transferred to the date of death and to date if they are still alive.

A summary of the analysis is as follows:

#### **Ambelcote House**

- A total of 29 people were transferred following the announcement of closure (taken as 6 months prior to the home closing on 9th March 2011)
- The average age at the time of closure was 87.8 and the average age at the time their service ended was a little lower at 87.6
- In all of the 29 people transferred, 6 died with an average age of 87.9 and the average age for those people still alive is 88.4
- The average length of stay for those people who have died post closure was 19.3 weeks and for those that are still alive is 35.5 weeks

- The combined length of stay post closure at Amblecote House is 32.2 weeks.

**Arcal Lodge**

- A total of 12 people were transferred following the announcement of closure (taken as 6 months prior to the home closing on 16th November 2007)
- The average age at the time of closure was 90.4 and the average age at the time their service ended was a little lower at 90.3
- In all of the 12 people transferred, 10 died with an average age of 93.8 and the average age for those people still alive is 88.1
- The average length of stay for those people who died post closure was 117.7 weeks and for those that are still alive is 211.1 weeks
- The combined length of stay post closure at Arcal Lodge is 133.2 weeks.

**Wallbrook**

- A total of 17 people were transferred following the announcement of closure (taken as 6 months prior to the home closing on 8th September 2009)
- The average age at the time of closure was 86.3 and the average age at the time their service ended was a little lower at 86.2
- In all of the 17 people transferred, 11 died with an average age of 88.3 and the average age for those people still alive is 85.7
- The average length of stay for those people who died post closure was 37.1 weeks and for those that are still alive is 109.3 weeks

The combined length of stay post closure at Wallbrook is 62.6 weeks.

**Stage 3 - assess the impact**

Does the policy or function/service have any potential adverse impacts on particular protected groups? If so explain what they are.

The potential adverse impacts are in relation to the age and disabilities of the people currently resident at New Bradley Hall. This makes them by nature a vulnerable group of people.

**Stage 4 - reasons for adverse impacts**

Outline the reasons identified for adverse impacts

The people resident at New Bradley Hall are all older, vulnerable people.

**Stage 5 - consider alternatives/mitigating actions**

How will any adverse impacts identified be reduced or removed? Explain if it is decided that an adverse impact is unavoidable.

The consultation process and re-provision of service will aim to ensure that any adverse impacts are kept to a minimum.

### **Stage 6 - test the changes**

Detail how the mitigating actions to reduce or remove the adverse impacts were tested, piloted or consulted on and the results of this.

Each person involved with this re-location will have support from a senior social worker.

This support was available with other home re-provisions, which were deemed to have been successful in their outcomes. (See stage 2 above)

Advocates are also being offered to people living in the care home to support the testing of the decision-making process.

### **Stage 7 – decision making**

Did the test, pilot or further consultation illustrate that the mitigating actions will be effective? What decision is recommended about the policy or service and why?

How will the decision maker be briefed on the EIA?

There has been significant concern raised by residents and families regarding the proposed re-provision of this service. As a consequence the period of consultation has been extended.

All residents have been offered independent advocacy. The Council has a Service Level Agreement with Dudley Advocacy. Four people have accepted this offer to date. Any requests for advocacy from alternative organisations will be met.

### **Stage 8 - monitoring arrangements**

How will the equality impact of the policy or service be monitored in the future?

The impact will be monitored through annual social care reviews for each individual. These will be held more frequently if required.

Complaints and concerns will be monitored and acted upon.

Externally commissioned care homes are regulated by the Care Quality Commission and are monitored by Council commissioning staff.

A further Report will be made to Cabinet in July 2012.

**Stage 9 – action planning**

Provide details of actions or improvements identified during the EIA.

The need for advocacy has been identified.

The Council is also using the services of a Barrister to ensure individual's rights are protected.

Date completed: 02.12.11

Signed by assessment leader officer: Maggie Venables

Signed by assistant director/ head of service: 02.12.11

Date: Brian Nesbitt

## List of Background Papers

Health and Social Care Scrutiny Committee 14<sup>th</sup> November 2011.  
Consultation process in respect of the Modernisation of Adult Social Care and the Home Closure Programme.

Cabinet report 14<sup>th</sup> September 2011. The Modernisation of Adult Social Care.

Council Report 5<sup>th</sup> March 2011. Revenue Budget Strategy and Setting the Council Tax 2011/2012.

Cabinet Report. 31<sup>ST</sup> October 2007. Continuing Report of the Development of Local Authority Residential Homes and Day Care Services – next steps.

Cabinet Report 12<sup>th</sup> September 2007. Extra Care Housing - Partnership Agreement.

Council Report 5<sup>th</sup> March 2007. Revenue Budget Strategy and Setting the Council Tax 2007/2008.

Cabinet Report 2<sup>nd</sup> November 2005. Report on Consultation in respect of Future Development of Local Authority Residential Homes and the Further Development of Housing with Care.

Cabinet Report 15<sup>th</sup> June 2005. Future Development of Local Authority Residential Homes and the Further Development of Housing with Care.

Cabinet Report. 9<sup>th</sup> November 2003. Residential Care of Older and Disabled People in Dudley.

*'Achieving closure': good practice in supporting older people during residential care closures* is a joint publication by the Health Services Management Centre (HSMC), University of Birmingham and the Association of Directors of Adult Social Services (ADASS), published in association with the Social Care Institute for Excellence (SCIE).

<http://www.birmingham.ac.uk/Documents/news/BirminghamBrief/AchievingClosureReport.pdf>