

DRAFT

**LINK Southwark:
A Scrutiny of Southwark Council Adult Social Care Services in
respect of the issues raised by the Care Quality Commission
Report 2008/09**



Summer 2011

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Executive Summary

The Scrutiny Task Group was set up when the Care Quality Commission (CQC) assessed Southwark Council as performing “adequately” in their provision of adult social care services in 2008/09. This was in comparison to the previous assessment by CQC’s predecessor, Commission for Social Care Inspection (CSCI) where Southwark Council was assessed as performing “excellent” in their provision of adult social services in 2007/08.

The drop in rating and its report findings caused a public disagreement from Southwark Council on the CQC’s report findings. The uncertainty surrounding the report findings caused LINK to address its remit to scrutinise adult social care and hold commissioners to account should this be found to be necessary. The Scrutiny Task Group sent a letter to the Council informing them of its intent to scrutinise adult social care provision and its commissioning functions, and to note its co-operation with the Council.

During the course of the Scrutiny, the Team met with various Council and CQC officials to gain further insight behind the CQC and CSCI assessment process, in addition to understanding the care home context in Southwark. Background research was undertaken to support this. Outreach visits to local older people community groups and public advertisement were used as tools to aid the scrutiny.

During the course of our information gathering process which involved consultation with various statutory bodies, the Council was forthcoming in providing information concerning previous embargoes and issues relating to Southern Cross Care Homes and the no longer operating Southwark Park Nursing Care Home. The issues raised by the CQC report are being tackled and was reflected in the upgrading of the Southwark Council’s CQC assessment to “well” in 2009/10 and no complaints received from the public of the quality of care homes.

PLEASE NOTE: UPDATE

While we are aware of the recent publicity surrounding the quality of care at these Homes (6th Oct 2011, Southwark News) and (28th April 2011, Southwark News) respectively, we are satisfied that Southwark Council has taken ownership in the work they are doing to improve commissioning of care services and the quality of services. With the continuity of funding available to the Lay Inspectors Scheme, we believe that these parties will endeavour to continue to tackle these issues. We will also be monitoring the situation.

Although the Scrutiny began over a year ago, Southwark residents are worth noting the report and its appendices. The research gathered will give an understanding of the:

- stages of a **care home pathway**,
- how the quality of care homes can be influenced by the commissioning process
- and transparency into the commissioning process, which has previously been not been widely known.

This information is relevant to the adult social care changes that are happening now:

- including personalisation where some people can be expected to ‘commission’ your own services for your personal budget
- in addition to background understanding of commissioning generally.

The report is aimed at Residents, family and friends who use or know of someone who use Social Care Services which can include Care Homes and Home Care.

1. Introduction

This report deals with the issues raised by the assessment of Southwark Council's Adult Social Care Services by the Care Quality Commission (CQC) for the year 2008/09 published in December 2009.

The CQC named Southwark Council as one of the eight worst authorities in the country as failing to provide a good enough service for Older People and people with disabilities. Southwark was assessed as delivering services "adequately" from a scale of "poor", "adequate", "good" and "excellently". It said it wanted to know why they were using homes judged as poor or just adequate.

Southwark Council, which dropped from being rated as "excellent" in 2007 (by its previous regulator Commission for Social Care Inspection CSCI) informed the LINK that they had called for an urgent parliamentary review of the new regulator. The furore surrounding the CQC report and its findings regarding Southwark Health & Social Care services for older people required that LINK Southwark address its remit to scrutinise such provision and hold commissioners to account should this be found to be necessary. LINK Southwark notified the council in a letter of its intention to conduct this inquiry.

At its meeting in December 2009, the Steering Group established a Scrutiny Task Group to examine the delivery of Southwark Councils care services, in exercise of its duty to Southwark residents as given by The Public Involvement in Health & Social Care Act 2007 (The Act). The outcome of the Task Group's work was not to produce a critique of the Council but to produce a report to Southwark residents that:

- describes both the process and the conditions as they are found to be during the course of the Scrutiny
- recommends action that may help to remedy any adverse situations which were discovered
- reassures residents that there is no cause for concern should this be the outcome of the Scrutiny and, therefore, the appropriate conclusion to be drawn from it

The Report outlines our lines of inquiry and findings. We would like to extend our appreciation to the many organisations, bodies and Council Officers who worked with us to ensure that we were able to substantiate our findings. A list of these can be found in [Appendix 1](#).

2. What we did

In early January 2010 the Scrutiny Team, following the approval of the Steering Group, published a press release to give notice to residents of the exercise of its statutory powers and sent a letter to the Council informing its intention to conduct a formal scrutiny with the above intended outcomes. (Please see [Appendix 2](#)). The Team and its remit were also approved to undergo training as required by The Act to become Authorised Representatives, if the need arose to exercise its "Enter & View" Authority.¹ ([Appendix 3](#))

The Scrutiny Team arranged to meet with the Council Officers on the best way to proceed with the inquiry. It also sent a series of questions to and had meetings with both the CQC and the Council to gain further understanding on the current Care Home situation in Southwark and the CQC assessment process. An advert was placed in the Southwark News newspaper calling for information on Southwark Care Home issues. A paper was also produced to provide background information on how care home services are accessed entitled "*Access and provision of care home services – A LINK Southwark Primer*". This outlines how an assessment occurs, the eligibility criteria and the types of care services offered. ([Appendix 4](#))

Further activities of the scrutiny included holding meetings with local community and representatives groups and individuals. We looked through relevant board reports, secondary literature, local and national legislation and policies as well as compiling our own Care Home database. The Team also informed the Council's Adult

¹ A description of LINK and its powers can be found in [Appendix 3](#)

Social Care Scrutiny Sub-Committee of its intentions and invited cooperation, if they intended to examine the CQC findings.

3. What we found

The Scrutiny was delayed by a few months, partly by the initial limited cooperation from the Council, as well as the staff changeover at the CQC, both of which had data that the Scrutiny needed to progress. We found some of our formal queries on the CQC report were not met, notwithstanding the statutory requirements to reply within 20 days, and similarly there was a failure to respond to timescales set by the Freedom of Information Act (FOI). The LINK understood the context within which the two parties were operating in at that time and at a later stage developed a constructive working relationship with both.

3.1 Home Care

Originally the scrutiny had planned to look at both care services at home and in care homes. However after initial scoping it was agreed that this was a much different area than care homes from the point of view of both of the Commissioning process and the service user pathway. Home Care was a substantial area within its own right, and it would not be feasible to look at both care homes and home care given limited time and resources. There were specific references to the CQC report that referred to the 'poor or adequately' rated services in Care Homes, but little about concern of care in the home, and it was decided to narrow the focus of the scrutiny on care homes.

To note, the findings of our commissioning report into care homes can provide a general understanding of the commissioning process and in some instances apply to the home care process. Given the incoming personal budget agenda and the 'commissioning' of your own services, this will be useful for future monitoring of services.

3.2 Enter & View

After much discussion with lay inspectors, the CQC, Age Concern Lewisham & Southwark and Older People Community Groups, we chose not to conduct a formal LINK visit called an 'enter and view'. It was felt that 'another inspection' would not be in the best interest of the residents.

3.3 Care Home pathway - current and new

Our research found that there was not, to date, a single document which clearly mapped the process and pathway of an Older Person Service User journey from initial access to assessment and provision of services. There was a limited understanding about the assessment process and how an individual is given a Care Home placement.² To the average person with no prior knowledge of the system, this added to the perception of accessing Care Homes as being complex or was not aware of the Council's duty to assess and their entitlement. Thus, we established and mapped this pathway. This can be found in [Appendix 5](#).

When viewing the care home pathway it is worth noting that the Council receives under 6000 adult social care referrals regarding older people per year. Out of these referrals, 3400 receive a service.³ Approximately 550 then go on to be placed in care homes.⁴ This is a smaller service-user group in comparison to other service groups.⁵

² If the individual disagrees with the outcome of the assessment, individuals will be advised to follow the complaints procedure. Firstly raising the complaint informally with the Adult Social Care Team (or through PALS); Secondly, if unsatisfied then formally making a complaint via the Complaints department, and thirdly, if still unsatisfied contacting the independent Local Government Ombudsman.

³ This refers to individuals who are funded, partly or in whole by Southwark Council.

⁴ Exact Values cannot be calculated. This is because some people are assessed for community based services and then later assessed for care homes which can account for some double counting.

⁵ This includes all service user groups such as learning disabilities, physical disabilities as well as Older People receiving other social care services

- Between October 2009 and October 2010, 5890 people contacted Southwark Council for a Needs Assessment [known as 'Community Care Assessment' (CCA)].
- 3404 were recorded as being offered a service, meeting the FACs eligibility criteria of substantial and critical. 93% were substantial and 7% were critical.
- Data 08/09 shows that Nursing Home placements had more placements of a lower rated service (Adequate and Poor) than Personal Care placements.
- The rest were signposted to other Grant Funded voluntary organisations of information and advice sources. This information is not automatically recorded but an annual survey of council funded organisations is undertaken by Southwark Council.

The age, health and economic status of residents have an effect on the type of care services needed and provided. This should be looked at in the context of the following demographic facts regarding Southwark having:

- a lower than average older people population of 27,000, a tenth of the borough population
- one of the highest socially and economically deprived communities nationally,
 - 26% of areas ranked in the most income deprived deciles (Income Deprivation Affecting Older People IDAOP)⁶. This means people aged 60+ years who are living in pension credit (guarantee) households, a means-tested social security benefit
 - over 60% of older people living in Council Homes⁷
- Older people as the biggest group receiving social care (71%)⁸

3.4 Commissioning

We wanted to find out the *current* way in which the Council commissions Care Homes and established that the two main procedures are block contracts and spot purchase. Block contracts are long term contracts with a specific provider that will guarantee a certain number of beds are reserved for a precise period of time at a specific price. Spot purchasing contracts are used when specific needs cannot be met within a block contract provision and there are no other alternatives. They are used as and when needed.

We are relatively clear on how the process for commissioning block contracts is followed but still have some outstanding questions related to spot purchasing. From the commissioning process, we were able to look into the two main care providers in Southwark and how this affected the CQC report assessment.

Main findings⁹:

- Contrary to other Councils, Southwark Council does not have an 'Approved List of Providers'. The Approved List shows Providers who have been assessed as reaching certain Council standards and therefore allowing Councils to simply choose one on the list, amongst other criteria if specified.
- National Government policy in 1991 saw a separation between the Provider and Purchaser/Commissioner. Therefore, it became common practice for Councils to outsource care homes to external Providers.
- The Council entered into a block contract with a Provider (Anchor Homes) to ensure them a guaranteed flow of income. This gave security to the Provider to invest in the care homes through rebuilding and renovating them.

⁶ English Indices of Deprivation 2007, London Borough of Southwark, Southwark Analytic Hub (April 2008)

⁷ This includes Council Rented and Socially rented (Older People Commissioning Strategy 2010)

⁸ Needs Audit for Health & Social Care (2006) for Southwark, Physical Disabilities are the second biggest group, physical disabilities (20%)

⁹ All figures relate to Older People and Older People Care Home. All care home residents mentioned in this section refer to individuals receiving council funded support.

- The block contract entered into by the Council and Anchor Homes (registered Personal Care Homes) is no longer as financially or demand effective and found to be similar across other London Councils. The Council are currently negotiating some of the contract specifications to increase its value for money while meeting the rising nursing home placements and re-addressing the Policy agendas mentioned in

Section 4.1.

- Southern Cross is the main nursing home provider in Southwark and has many 'spot contracts' with the Council. Many of these care homes were assessed as 'adequate' care.
- Many residents were placed in Southern Cross Care Homes due to the limited choice of Nursing Home Providers in Southwark as well as the influence of family/friends who choose Southern Cross based on how close the care homes was to them.
- As of November 2010, information received saw 312 Southwark residents placed in a Care Home in Southwark, with 53% of these placed in Anchor Homes as part of the Block Contract Agreement and 47% (148) in spot contracts. (*Appendix 5, Figure 3*)
- 77% of the Spot contracts in Southwark, were with Southern Cross Care Homes. (*Appendix 5, Figure 4*)
- The social demographics of care home residents are changing. Two trends are identified,
 - the demand for care homes without nursing is decreasing (i.e. Personal Care Homes)
 - the demand for care homes with nursing is increasing

Upon entering a care home, most care home residents tend to get progressively physically and mentally less able. This changes the individuals care needs from when they first arrived at the care home requiring *personal care* needs to later requiring *additional nursing care needs*. Consequently, Personal Care homes will be providing additional nursing related care for some of its residents. The change in care needs means that the type of care provided at a personal care home and nursing care home can get/is blurred. Our research suggests witnessing other residents receiving mental healthcare can have a negative impact on the quality and mental well-being of those who are not at that stage.

PLEASE NOTE: Since time of writing more up to date figures have been released by the Council in relation to the transfer of ownership from Southern Cross to other Providers. However the main reasons and trends still persist. The Southern Cross Briefing (Sept 2011) presented at the Councils Health & Adult Scrutiny Sub-Committee (HASC) meeting (6th Oct 2011), which resulted in the public news announcement can be found here <http://moderngov.southwarksites.com/mgConvert2PDF.aspx?ID=22612>

- Care Homes were rated by CQC on a scale from 0 star ("poor"), to 3 stars ("excellent") to reflect the quality of care provided at that care home.
 - We could not establish a relationship between the *stars rating / quality of care provided* and the *price* of care home placements.
 - All contracts (block and spot) have a selection criterion, which included weighting the quality of care against its financial worth. Uncertainty surrounds the selection criteria for a Provider, and more specifically the weighting between quality and costs.

However, during the course of the scrutiny it has become clear that Commissioning is moving towards fulfilling the Personalisation Agenda, less of block contracts and more of spot purchasing - which will affect how both 'Homecare' and 'Care Homes' will be provided in the future. Please see Section 4.1 for more information.

A more extensive report on our findings into the commissioning of care homes can be found in [Appendix 5](#) including the purchasing of Adult Social Care services specifically care homes in and out of the borough, who the main care home Providers are, monitoring arrangements and how the care homes are paid for.

4. Issues that influenced the conduct of the Scrutiny

The Scrutiny Team noted that a combination of delays and obstacles during the start of the Scrutiny affected its progress and the publication of the Scrutiny's activities. As our scrutiny progressed, it became clear that the

Council was making progress towards resolving the issues identified in the CQC 2008/09 report alongside the substantial work taking place regarding the national transformation of the adult social care system. The CQC was found to be working closely with Southwark Council, to improve their outcomes.

This became clear with the next publication of the CQC Assessment for 2009/10, published 29th November 2010 whereby the rating of Southwark adult social care services was upgraded by one band to the rating of “Well”.

4.1 Policy Shift – Incoming Personalisation and its impact on commissioning and delivery of social care services

As first proposed in the ‘Putting People First’ Concordat (2007) and in line with the national policy, Southwark Council have had to completely transform their adult social care system. In this last year we have seen Southwark Council moving away from *just providing services* (service –oriented) to focusing on giving more choice by arranging services *around the persons preferences* (personalised services).

Part of this policy includes:

- a) moving towards Care in the Community, with Care Homes as an absolute last option
- b) Personal Budgets for Home Care Services and possibly in the future Care Homes.

The Council will change its approach in two ways:

- a) Re-focusing services that can take place at the persons home or in a community setting i.e. GP surgeries/clinics. This can be for primary or clinical need.¹⁰
- b) Southwark Council will no longer provide all social care support; instead individuals who meet the Councils eligibility criteria and the financial assessment will have a bigger role in picking and buying their own services through using Personal Budgets. On a commissioning level, this means the Council will buy fewer services on a long term basis i.e. ‘block’ contract, with the public buying more individual ‘spot’ services using their personal budgets.

In addition the council will be focusing more on short term intensive treatments to avoid people going into long term care, i.e. having a Personal Budget. This can refer to Intermediate Care or “Reablement”.¹¹

In summary this policy heavily emphasises Home Care in the community as the way forward rather than the use of Care Homes. There is a financial long term incentive for such a policy, as Care Homes (Residential and nursing homes) takes up over 40% of the Adult Social Care Budget.

4.2 Financial Constraints

Social Care provision is expensive to fund in the long term, especially as people are living longer and therefore more money is needed. Adult Health & Social Care is one of the highest costs using up to a third of the Council’s *total* budget. In May 2010, the Coalition Government announced significant reductions in Government support for Council Services delivered through a Council’s Area Grant. This impacted substantially on discretionary social care spending from 2011/12 onwards, and accelerated the emphasis from care homes to home care, as well as leading to the decommissioning of other social care services.

4.3 Limited care complaints received in care homes

The Team widely publicised the call for information regarding the quality of care received in care homes. This

¹⁰ Primary need refers to services that do not require hospital admission, usually non-urgent medical care such as going to see a GP, midwives, dentists, pharmacists.

¹¹ Since August 2011, Southwark and Lambeth Community Services are piloting a Virtual Ward Pilot, to support the wider Admissions Avoidance Programme which involves avoiding long term admission into care homes.

included outreach meetings and presentations with local community groups, residents in community settings, lay inspectors and local branches of national organisations. Two issues were raised from this that affected the scrutiny:

- it was found that another inspection was not in the best interests of care residents
- there was difficulty in accessing current residents who were in care homes and their carers or relatives, taking into the account the sensitivities when entering a care home and those who were in care homes would be unlikely to assist due to their frail capacity.

Despite substantial advertising and appeals by the LINK, no service users, family or friends came forward on complaints of care received in care homes. Consequently we did not continue the prospect of an Enter & View.

5. Conclusions to the Scrutiny Team remit

In light of our scrutiny findings, LINK Southwark considers that the issues and concerns raised by the CQC Report 2008/09 has effectively been tackled by the Council since then, and continues to be at the forefront of Commissioners.

During the course of the scrutiny process, we found that:

- People we spoke to were not clear about the pathway
- Substantial work was going on to improve the Councils commissioning of Adult Social care services and specifically care home services, informed by recent financial constraints. This included the Councils intervention to a Southern Cross Care Homes and working with them to improve the quality of services.
- Practices observed in commissioning services is changing.
- The purpose of the scrutiny – the 08/09 CQC assessment of “adequate” – was overtaken by the subsequent CQC assessment in 2009/10 of “well”.

On the basis of the above, the remit for the Scrutiny Team as outlined in the letter to Southwark Council (Appendix 3) has been fulfilled. However, given the accelerated progress of the transformation of the Adult Social Care System as well as the added financial cuts, the Adult Social Care system is still in its early stages in establishing a robust Adult Social Care system, but this is outside the remit of this Scrutiny Team.

After its initial shock, the Council acted strongly to address the adverse Report from the CQC and succeeded in increasing the Regulator’s rating suggesting that sufficient progress had taken place. The Scrutiny Team’s own observation confirmed this and so we are satisfied that we are able to provide that reassurance to residents to which we referred at the onset in Section 1.

We would also like to note that while the original intention of the scrutiny team was to provide an evidence-based report on the quality of older people care homes leading to a possible Enter & View, influences noted earlier redirected our focus onto the quality of commissioning of care homes which can affect the quality of care homes, and the care home pathway.

In particularly, we would like to draw attention to Appendices to 4, 5 and 6 to Southwark residents.

Southwark residents will find these sections useful during this period where the adult social care system is changing. It helps to get a vital understanding on what happens when you or a relative may be in need of a care home placement. Understanding the way the care pathway and system works, helps in finding what you or your relative/friend need to get the best help for them.

Appendix 6 gives an general understanding to Southwark residents on commonly used terms that are not always clear to understand such as ‘Commissioning, Providers, block contracts’, and what this means for Southwark, especially given the recent media publicity on care homes.

6. Future Considerations:

During our scrutiny there have been no adverse situations found, however certain matters and issues need to be highlighted relating to the commissioning of Care Homes for Older People:

- the low level of awareness of the Care Home pathway by residents,
- there is not a commissioning related 'Approved List' for Providers, how do carers begin to choose care homes?

Some concerns do not directly relate to this remit, but are of importance to Southwark Residents and are noted below.

Care Home Pathway

- **Clarity on why a Care Home Placement is given and what social care they offer.**
Clear criteria and information on *when, why and in what situation* a care home placement is needed and given. This should be provided freely to *promote understanding* of the reasons for a care home. It would also correct misperceptions especially in the older community.
- **Publicity and wider awareness in the community**, especially older people, of the central contact point for social services. Not everyone can access the internet, or know who to telephone. The most vulnerable being those who are isolated.
 - ***The Team has noted that the Council has since established a central contact point for all social care services***

Commissioning

- To develop a system of a 'select or approved list' where providers are only included on the list after being vetted/examined to a certain criteria. This will help when short listing providers for services. This should incorporate strong specification criteria with effective monitoring mechanisms and evaluation tool in place to encounter risks to quality of service. Such assurances will help Personal Budget Holders.¹⁰ It will also help Carers to begin to select care homes, while some appreciate reliance on Social Workers helping, choosing a care home can be bewildering.
 - ***The Council are setting up a Social Care Directory online, but at time of publication there has been no confirmed vetting criterion for providers.***

7. The Way Forward

LINK Southwark notes that the meeting of the Council's Health & Adult Social Care Scrutiny Sub-Committee (HASC) on 4th May 2011, records the concerns both for the past and for the future similar to its own.

In order to continue to develop the LINK's scrutiny function and practice, as the Scrutiny Team completed its remit, an Adult Social Care Scrutiny Task Group is being established, to report to the soon-to-established new Leadership Group. Its approach will be scrutiny-based, however its specific work plan has yet to be confirmed. The task group will monitor and report to residents the changes that are taking place in Southwark's Adult Social Care System, with a focus on the commissioning and delivery of social care in a rapidly changing and financially challenging environment.

The LINK hopes that in accordance with best practice, it can jointly work with the HASC in exploring our common concerns and remit. It hopes its action will provide the basis for the future system of scrutiny by the emerging

¹² The Scrutiny did not look at Southwark practices in comparison against other local Councils; however this may be a future consideration for the Adult Social Care Task Group.

local HealthWatch as proposed in the Health and Social Care Bill being considered by Parliament at the time of this report's publication.

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Glossary

Below are commonly used terms throughout the report. We have described the meaning and context in which we use these terms.

- **“Older People”**: This refers to people aged 65 and above.
- **“Service Users”**: refers to individuals who use or receive social care services.
- **“Council Support”**: refers to individuals who receives funding either in part or in full by Southwark Council. This report refers only to these individuals, unless explicitly stated.
- **“Care Homes”**: refers to Residential Care Homes of both Personal Care Homes and Nursing Care Homes. Care Homes are registered as providing Personal Care or Nursing care, and can be registered for a specific care need, e.g. dementia or terminal illness.
 - **Personal Care Homes**: provides accommodation, meals and personal care for older people. Personal Care can include help with bathing, dressing and preparing meals, to those who are unable to do so without help.
 - **Nursing Care Homes**: provides the same services as personal care and will also have a qualified nurse on duty twenty-four hours a day to carry out clinical/nursing care. These homes are for people who are physically or mentally frail or people who need regular attention from a nurse. They will only accept people with nursing needs or in certain circumstances people with personal care needs at present but will need nursing care later.
- **“Fair Access to Care services (FACs)” / “Eligibility”**: This refers to the national governments eligibility criteria for Adult Social Care, known as FACs. There are 4 bandings: from low, moderate, substantial and critical needs. Each Council sets its own criteria based on this. The Council will assess the individual’s level of need, and if it meets the Council’s criteria, they will *eligible* or entitled to support. Southwark Councils criteria are individuals with needs of a substantial or critical nature. (For more information, please see Appendix 4.)
- **“Reablement”**: is a free and short term (usually 6-weeks) intensive treatment to help individuals re-gain the ability to carry everyday tasks they previously were able to do. They work with the individual to help regain mobility, confidence and life skills such as preparing a meal. This is designed to avoid individuals being re-admitted into hospital, help with recovery after an illness and/or to avoid entering into a care home or long term home care package.
- **Care Quality Commission (CQC)**: is the Independent Regulator for all health and social care services in England. Each Provider/service must be registered by the CQC.
- **Commission for Social Care Inspection (CSCI)** was the CQC’s predecessor.
- **Star Quality Rating**: shows the quality of care at the care home following assessment by the CSCI (CQC predecessor). From lowest to the highest rating:
 - 0 Star = Poor
 - 1 Star = Adequate
 - 2 Star = Well
 - 3 Star = Excellent

List of Appendices

Appendix 1: Sources of Information

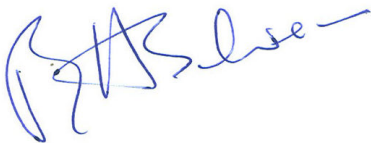
We would like to show our appreciation and extend our thanks to the organisations below that assisted with our scrutiny:

- Age Concern
- Alzheimer’s Society & Dementia Cafe
- Care Home Advocates / IMCA
- Care Home Representatives
- CQC – Southwark / CQC service Inspector
- Lay Inspector Schemes
- Oxfam
- Southwark Council – Procurement & Commissioning
- SPC Advert
- various Older People Community Groups including
 - Dulwich Library Older People meeting
 - Over 60+ Garden Party
 - SMWA – Older People BME Groups

We would also like to make a particular mention to the Lead Commissioning Manager for Older People and his team for giving us his time, frankness/transparency and consideration during the conduct of our work.

The Members of the Scrutiny Team include:

From the Steering Group:



Barry Silverman
(Lead of Scrutiny Team, Chair of LINK Southwark at the inception of the Scrutiny Team),

Felicia Boshorin
(Vice-Chair of Social Care)

Martin Saunders
(Vice-Chair of Health)

From the Host:

Alvin Kinch (Host Team Leader)

Sec-Chan Hoong (Host Researcher)

Kris Hall (Host Community Services Manager)



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4th January 2010

Annie Shepperd
Chief Executive
Southwark Council
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Dear M/s Shepperd,

In the light of the findings of the CQC, you will not be surprised to learn that it is the intention of **LINK Southwark** to scrutinise Southwark Council's Commissioning and provision of Care Services for Older People in Care Homes and in their own homes. Scrutiny will be undertaken using the powers given to The LINK by The Local Government and Public Involvement in Health Act, 2007.

In the first instance, The LINK would like to meet with you and/or The Strategic Director of Health and Community Services, if you think the latter to be the more appropriate. The purpose of this Meeting would be, solely, to explore how the Scrutiny can best be conducted, and the facility that you will provide to the LINK Scrutiny Team, so that the Report, that The LINK will make to the Residents of Southwark, in pursuance of its Statutory Duty, is **Evidence Based**.

The LINK anticipates that it will:

- wish to meet with Council Personnel engaged in the Commissioning of these services as well as those engaged in Provision, at both Management and front - line levels
- need to have access to all relevant papers of which it will give Statutory Notice, in accordance with The Act
- use its **Enter & View powers**, according to The LINK Regulations, as a tool of scrutiny if it deems that this would be helpful to the Scrutiny process

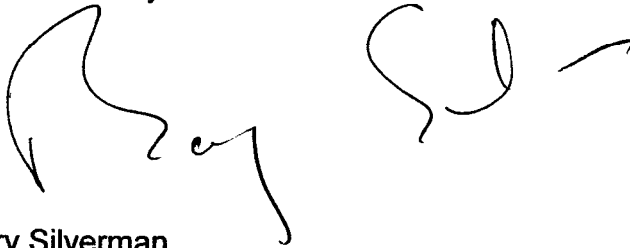
The LINK has as its objective the production of an 'Evidence-Based Report' to Southwark Residents that:

- describes both the process and the conditions as they are found to be in the course of Scrutiny
- recommends the action that is thought would be likely to help remedy any discovered adverse situations
- reassures residents that there is no cause for concern should this be the outcome of the Scrutiny and, therefore, the appropriate conclusion to be drawn from it

The LINK will be liaising with the **Adult Health & Social Care Oversight & Scrutiny sub - Committee** in accordance with suggested Best Practice.

The LINK now looks forward to hearing from you with a view to an early commencement .

Yours sincerely

A handwritten signature in black ink, appearing to read 'Barry Silverman', written in a cursive style.

Barry Silverman
Chair of LINK Southwark

Copy :

Susanna White, Strategic Director of Health and Community Services

Councillor David Noakes, Executive Member for Health and Adult Care.

Appendix 3: LINK description and powers

LINK Southwark is the Local Involvement Network which consists of local people, organisations and community groups. LINKs give these people the opportunity to improve health and social care services in Southwark such as GPs, dentists, care homes and hospitals.

The Local Government & Public Involvement in Health Act 2007 section 221 states the current activities of the LINK as

(A) Promoting, and supporting, the involvement of people in the commissioning, provision and scrutiny of local care services;

(b) enabling people to monitor for the purposes of their consideration of matters mentioned in subsection (3), and to review for those purposes, the commissioning and provision of local care services;

(c) Obtaining the views of people about their needs for, and their experiences of, local care services; and

(D) Making—

(i) views such as are mentioned in paragraph (c) known, and

(ii) Reports and recommendations about how local care services could or ought to be improved, to persons responsible for commissioning, providing, managing or scrutinising local care services.

LINKs were developed to look at:

- The quality of a health or adult social care service
- Access to services
- Proposed changes to health and social care services
- The care needs of different parts of a community
- The priorities of Southwark residents

LINKs have statutory powers to:

- Visit care services to see how they are running (This is known as an “Enter and View”)¹³
- Ask for information from the commissioners of services and get a response, by law, in 20 working days
- Make recommendations and get a response from commissioners
- Refer matters to the Southwark Council Health and Adult Social Care Scrutiny Sub-Committee

LINK Southwark is independent of the Southwark Local Authority and the NHS. LINK Southwark is supported by the ‘host’ organisation Cambridge House.

¹³ This is a power unique to LINK and is not shared with Southwark Council.

Appendix 4:

Access and provision of care home services

– A LINK Southwark primer.

Initially, there are three stages process that need to be understood.

- Assessment
- 'Needs' and 'Eligibility'
- Care planning and Service Provision

1. Assessment

What triggers the 'duty to assess'?

There is *a duty* on all local authorities to carry out an assessment on an individuals need for community care services – even where the individual has made no request for one – once:

- A) The individual has '*come to the attention*' of the authority
- B) He/she appears to belong to one of the client groups for whom community care services can be provided
- C) He/she might benefit from the provision of services

What happens in an assessment?

Unlike for children's services, there's no 'Common Assessment Framework'. There is no statutory definition of what the assessment process *should* consist of.

Section 47 (4) of the 'National Health Service and Community Care Act (NHSCCA*) of 1990', leaves it to the local authorities discretion of *how* exactly it carries out an assessment.

'Principles' of assessment are set out in the NHSCCA. 'Guidance' exists (e.g. 'Fair Access to Care Services' – FACS) which directs 'Good Practice' – for example, to involve fully the individual and the carer of the individual in the assessment process. These principles and guidance have been further developed by case law. Obviously, 'case law' exists because people have challenged their assessments as being flawed and have achieved concessions on various grounds.

Timescales for assessment:

There is no specific time limit for carrying out assessments and chronic delay is therefore a feature of many authorities' assessment processes. A problem for 'advisers' (i.e. carers, advocates) is deciding when a 'delay' amounts to a 'refusal to assess'. In practice raising legal arguments about delay in assessment generally leads to an assessment being carried out!

Identifying a need during assessment:

Section 47 (1) of the NHSCCA* 1990 requires authorities to 'identify those needs that *can* be met by the provision of a community care service'. For example, if the assessment identifies a health or housing need, Social Services has *a duty* (under Section 47 of NHSCCA) to refer the individual to the Health or Housing Authority.

Carers Assessments

The Carers and Disabled Children Act 2000 gives carers an independent right to have *their own* needs assessed – regardless of whether the person they are caring for is also having an assessment. The ‘Carers Assessment’ may therefore identify needs that may impact on any assessment of the person that they are caring for.

2. ‘Needs’ and ‘Eligibility’

How is ‘Need’ defined?

There is no statutory definition of ‘Need’. Policy, practice and case law give only some helpful guidance.

The 1991 Practice Guidance subdivides ‘Need’ into 6 broad categories:

1. Personal/Social Care
2. Health
3. Accommodation
4. Finance
5. Education/Employment/Leisure
6. Transport/Access

Each of which should be covered in any comprehensive ‘Assessment’.

(NB: Case law has also recognised ‘psychological’, ‘emotional’ and ‘cultural’ needs – presumably when these have judged not to have adequately been recognised during the assessment under any of the existing 6 headings)

Meeting ‘Need’

Not all needs are capable of being met by service provision. Need identified during assessment that cannot be met through service provision is called ‘Unmet Need’. The Practice Guidance advises that ‘Unmet Need’ be recorded in a care plan.

However, there is no guarantee that even when an identified ‘Need’ *can* be met by service provision it *will* be met by service provision. This is because there is a conflict between balancing an individuals needs with the availability of limited resources.

Eligibility Criteria

In deciding whether services will be provided to an individual, the Local Authority will determine whether the individual is ‘eligible’. It will do this by referring to its own ‘Eligibility Criteria’. If an individual does not meet the Local Authorities ‘Eligibility Criteria’ they may not be provided services by the Local Authority. For example, Southwark only provides services for individuals whose ‘Need’ is defined as being ‘Critical’ or ‘Substantial’ (see section 4 for FACS ‘superseded 2010’ definition).

What happens to those not eligible?

If services are not offered then the individual must be presented with a written explanation of the reasons for this. A Council must have satisfied itself that an individual not eligible for services needs will not significantly worsen or increase in the foreseeable future and compromise key aspects of independence. The individual will then be signposted to alternative providers.

3. Care Planning and Service Provision

Care Plans

There is no statutory duty to provide a care plan. However, Policy Guidance and case law support care plans. FACS guidance states that if a person is assessed as having a need and is eligible for services, then a council should develop a care plan involving the individual in the process. The guidance sets out the minimum criteria:

1. Note of Eligible Needs
2. Preferred outcomes of service provision
3. Contingency plans for emergency changes
4. Details of services to be provided, any charges the individual is assessed to pay, or if direct payments have been agreed.
5. Contributions of carers and others who are willing and able to make
6. A review date

Does the service user have any options about choice of alternative care packages?

First and foremost, the proposed package must meet assessed needs. The Local Authority is obliged to take into account the views, wishes and preferences of the service user and his/her carer. However, the decision of how to provide for assessed needs ultimately rests with the Local Authority.

What kind of services could be provided?

Non-accommodation:

The objective of Community Care Provision is to ensure that people are enabled to achieve maximum control and independence over their lives and to live in their own homes wherever possible. The Policy Guidance 1990 stresses that in order to obtain the objective of ensuring service provision as far as possible preserves normal living, there should be an order of preference in constructing a care package. The first preference should be to provide support for the user in his or her home. This may include provision of radio, TV, mobile library service, travel and other assistance, home adaptation and disabled facility, meals, holidays, telephones and ancillary equipment.

Residential accommodation:

A residential setting where a number of older people live, usually in single rooms, and have access to on-site care services. Since April 2002 all homes in England, Scotland and Wales are known as 'care homes', but are registered to provide different levels of care. A home registered simply as a care home providing personal care will provide personal care only - help with washing, dressing and giving medication.

A home registered as a care home providing nursing care will provide the same personal care but also have a qualified nurse on duty twenty-four hours a day to carry out nursing tasks. These homes are for people who are physically or mentally frail or people who need regular attention from a nurse.

Some homes, registered either for personal care or nursing care, can be registered for a specific care need, for example dementia or terminal illness. Clients will either remain in the borough, or, be placed in accommodation outside of the borough (NB: In this case, the 'placing authority' will in most circumstances remain responsible for the provision of that care).

Preferred Accommodation:

A preference for a particular accommodation over another can be expressed; however, there is no obligation for the authority to provide this if it is more expensive than what the council would normally pay. The accommodation must also be suitable to the persons needs as defined in the assessment

4. Eligibility Criteria

The Eligibility Criteria refers to the Fair Access to Care Criteria (FACS). This supersedes February 2010 version):

Critical – when

- life is, or will be, threatened; and/or
- significant health problems have developed or will develop; and/or
- there is, or will be, little or no choice and control over vital aspects of the immediate environment; and/or serious abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out vital personal care or domestic routines; and/or vital involvement in work, education or learning cannot or will not be sustained; and/or vital social support systems and relationships cannot or will not be sustained; and/or vital family and other social roles and responsibilities cannot or will not be undertaken.

Substantial - when

- there is, or will be, only partial choice and control over the immediate environment; and/or
- abuse or neglect has occurred or will occur; and/or
- there is, or will be, an inability to carry out the majority of personal care or domestic routines; and/or
- involvement in many aspects of work, education or learning cannot or will not be sustained; and/or
- the majority of social support systems and relationships cannot or will not be sustained; and/or the majority of family and other social roles and responsibilities cannot or will not be undertaken.

Moderate - when

- there is, or will be, an inability to carry out several personal care or domestic routines; and/or
- involvement in several aspects of work, education or learning cannot or will not be sustained; and/or
- several social support systems and relationships cannot or will not be sustained; and/or
- several family and other social roles and responsibilities cannot or will not be undertaken.

Low – when

- there is, or will be, an inability to carry out one or two personal care or domestic routines; and/or
- involvement in one or two aspects of work, education or learning cannot or will not be sustained; and/or
- one or two social support systems and relationships cannot or will not be sustained; and/or
- one or two family and other social roles and responsibilities cannot or will not be undertaken.

Appendix 5 – What happens in a Care Home pathway?

People go into care homes usually when they are unable to appropriately care for themselves or do not have someone to provide that care. This will affect their health and well-being and is commonly referred to as 'social care'. It is triggered by a referral from any health professional, family or friend, to the Southwark Council Social Care Services.

An assessment of Social Care needs has to take place before services can be provided. The outcome of the assessment will decide whether a care home place is the best option for that individual. It can be on a temporary basis or permanent basis.

The pathway highlights various important checkpoints in the Care Home pathway. This includes the quality of the individual's first contact with social care services, and the limited understanding of why care homes are a care option and alternative care options. It also brings to attention, the importance of universal services in terms of public awareness and accessibility, as well as changes to care planning via the Personalisation Agenda bearing in mind that the Agenda only applies to those who qualify for Council Support.

The pathway to a care home will generally incur 6 stages. (Figure 1) provides a flowchart diagram of this pathway.

Summary of Care Pathway

Stage 1:	Referral
Stage 2:	CCA / Needs Assessment
Stage 3:	Needs Identified
Stage 4:	Eligibility
Stage 5:	Care Planning and Outcome Residential Care Home Panel Procedure
Stage 6:	Financial Assessment

Key to the Care Home Pathway flowchart (Figure 1)

ASC – Adult Social Care

CCA – Community Care Assessment (also known as a 'Needs Assessment')

CSC – Customer Service Centre

DP – Direct Payments

FACs Eligibility – Fair Access to Care Guidance

ID - Identification

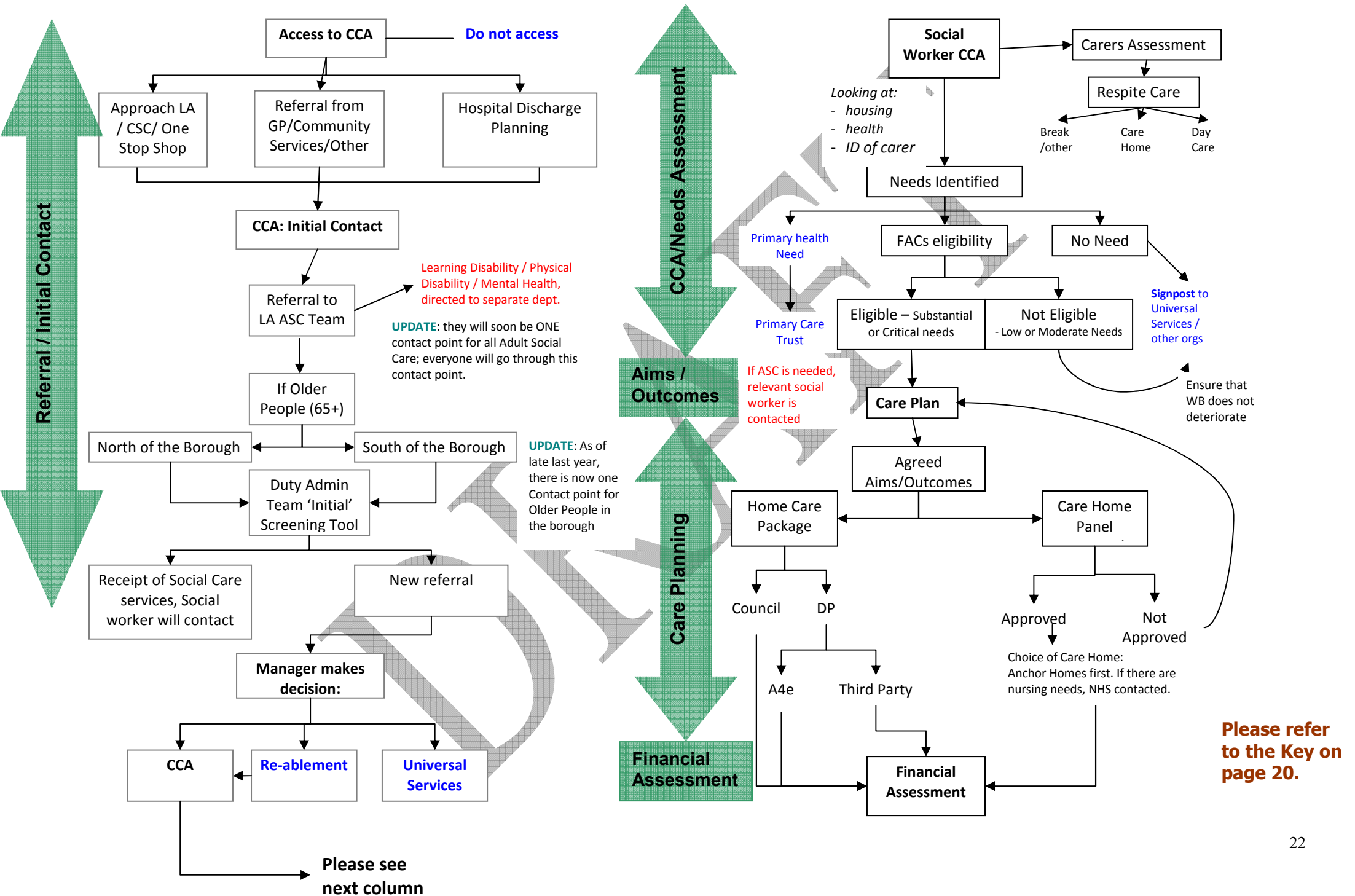
LA – Local Authority

WB – Well Being

Blue Text – indicates an individual not receiving care from the ASC system

Please refer to Figure 1 on the next page.

Appendix 5: Figure 1: What happens in a Care Home pathway?



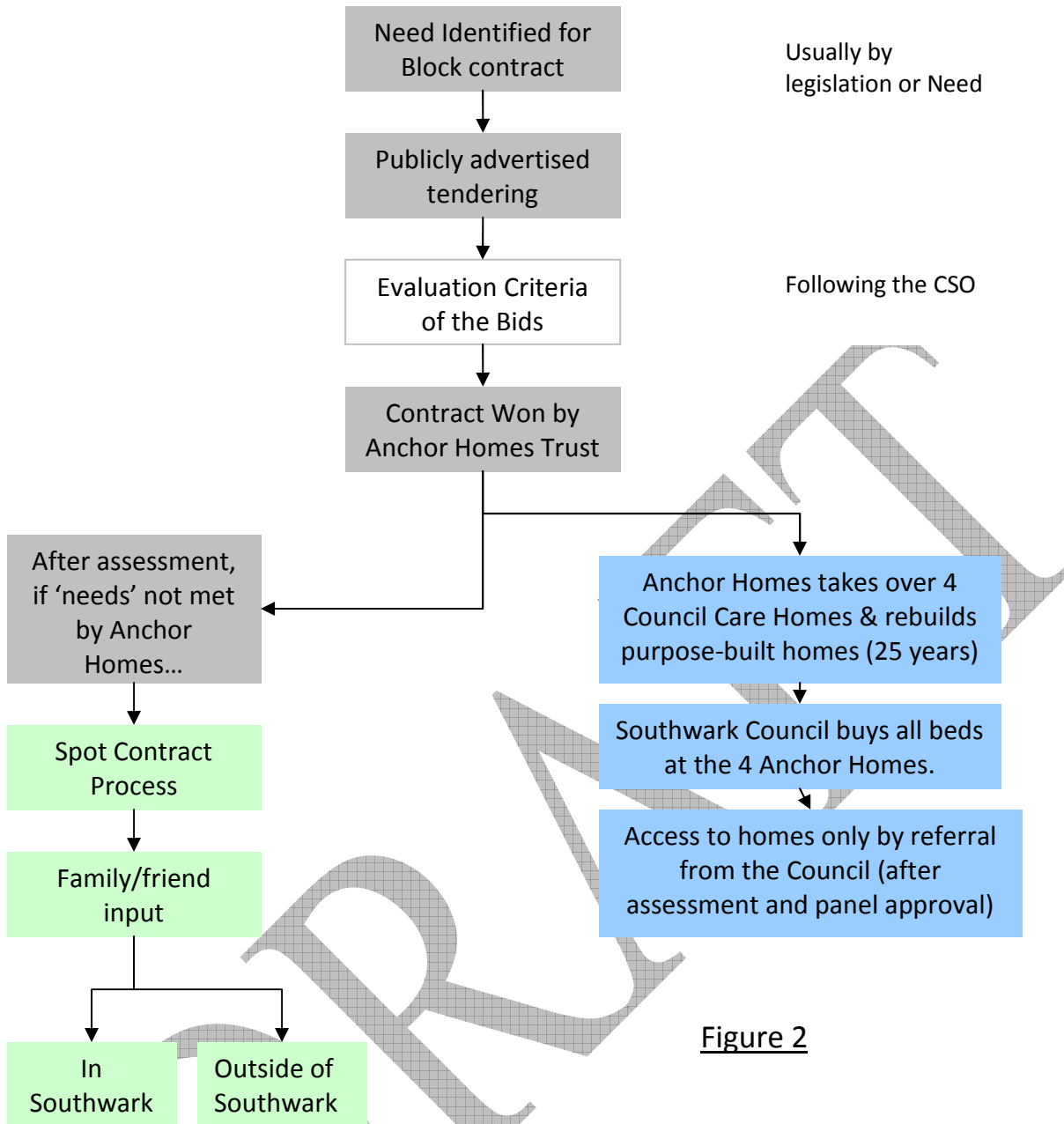
Appendix 6: Commissioning Process

In order to understand the CQC's 2008/09 assessment of Southwark Council as providing Care Homes assessed as "adequate" or "poor" we need to understand how Care Homes are commissioned. Therefore this Report summarises how Care Homes for Older People are commissioned by the Council; firstly it provides the definition of commissioning, outlines the process, shares who the main Providers are, the monitoring arrangements and how it is paid for.

1. What is Adult Social Care Commissioning?

- **Commissioning** relates to buying services for a specific need or aim. Commissioning involves finding out what is needed, looking at the options available, choosing the best solution and then seeing if that service or organisation can be improved at the same time as balancing the cost and the quality.
- The council **currently commission adult social care services on behalf of Southwark residents**. This means that the Council do not directly provide the service but pays someone or an organisation to carry out that service based on the Council's rules (specification criteria). A contract document states the rules and agreement for both the Council and the organisation.
- When the Council is going through the commissioning stages for a service, they have to follow the Council's Contract Standing Orders (CSO). Adult Social Care Commissioning also has its own internal social care guideline which they must follow on top of all the CSOs. All decisions follow the CSO pathway.
- In Adult Social Care, commissioning occurs in **Block or Spot contracts**. *Block contracts* are long term agreements with a Provider to give a continued and consistent service, whereas *spot contracts* are a one-off agreement for a specific purpose or need that cannot be met by the block contract. This applies to all home care, day care and care home services.
- In early 2010, the Council acknowledged the need for clearly defined roles in Commissioning by putting in place a Commissioner for each service user group: *older people, learning disabilities, mental health and physical disabilities*.

2. How are Care Homes commissioned?



During the 1990s, Southwark Council stopped directly providing Care Home services. Instead they paid an external organisation to run their care homes. This was because of the national policy introduced in 1991 to separate the Provider and Purchaser function, as part of the wider context in trying to establish an internal NHS market.

The Main Providers

a) Anchor Homes (Block Contract)

Following the flow chart above (figure 2), Anchor Homes won the big long term contract known as a block contract. This contract was agreed for 25 years. Anchor Care Homes include Blue grove House, Greenhive House, Rose Court and Waterside.

The Block Contract was based on the agreement that Anchor Homes would be guaranteed an income during the years of contract, in order for them to re-build and invest in the four care homes it was taking over. This meant:

- That Southwark Council would buy all their beds at their homes – regardless whether the beds were occupied or not – at an allocated fee per bed. At the time, it was deemed to be cheaper in the long term than buying single beds when needed.
- Access to Anchor Homes beds is only through referral from Council Social Services
- A preference for individuals to be placed at Anchor Care Homes, if their needs could be met there.

b) Southern Cross (Spot Contracts)

Needs that could not be met at Anchor Homes, which were mainly nursing needs as Anchor Homes lacked the appropriate registration, was met at other care homes as and when needed. This is known as ‘Spot Contracts’. Exact details on spot contracts are unclear, but we know that Spot Contracts are agreed after deliberation with the social worker, individual and family. Personal and family choice can affect the Council’s number of lower rated Care Homes as mentioned in the CQC Assessment 08/09.¹⁴

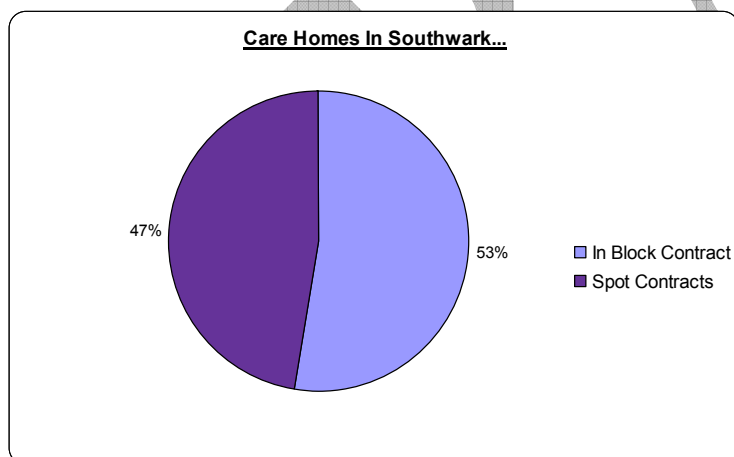
The main recipient of these spot contracts is Southern Cross. Southern Cross was receiving ‘adequately’ rated reviews from CQC. During the scrutiny progress, the Council have intervened to avoid placements in these named homes as well as working with them to improve its commissioning quality.

NB: Southern Cross have recently moved to new operators due to financial reasons. Southwark Council have released a press statement found in the link below.

http://www.southwark.gov.uk/news/article/453/important_update-southern_cross_care_homes

Breakdown of Placements and Main Providers

- **Inside Southwark, 53% of placements are in Block Contract and 47% of Spot Contracts.**
- **Inside Southwark,** 77% of spot contracts are in Southern Cross Homes.
- **Outside of Southwark,** all placements are spot contracts and make up approx. 42% of all care home placements.



Note: based on figures received in Oct 2010. There are a total of 312 residents in Southwark-based Care Homes, 164 in Anchor Homes, and 148 in spot contracts.

Figure 3

Context¹⁵

The Council’s temporary embargo on some Southern Cross care homes and its quality concerns, combined with the limited nursing care homes in Southwark, meant that the Council had to look outside of the borough to find nursing home placements. In addition, a substantial influence of out of borough placements was due to family connections.

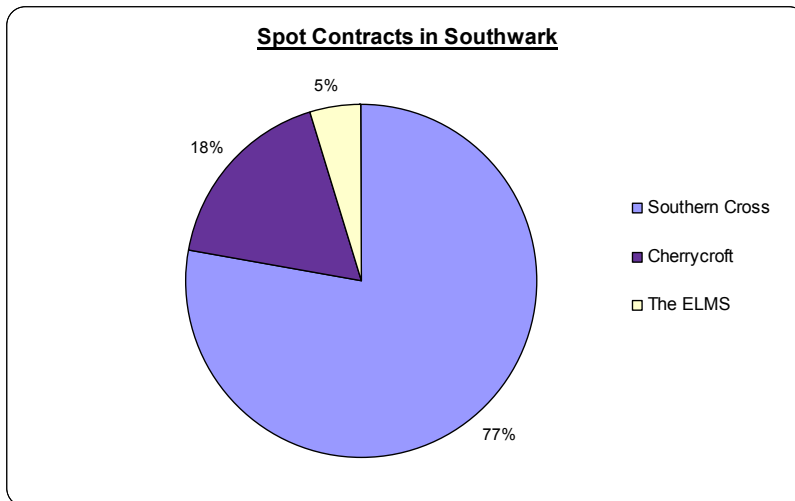
¹⁴ Recognised by CQC (‘The Quality of Care Services Purchased by Councils’ Nov 2010) and Southwark Council, but we are not clear how big a factor this is.

¹⁵ 2005 Contract Variation between Anchor Homes and Southwark Council saw Southwark Council decrease its purchase of beds from 100% to 80%.

The increase in Care Home reliance as a means of providing council support also contributed to the Councils assessment.

Figure 4

Breakdown of Spot Contracts In Southwark



Note: Southern Cross and Cherrycroft are run by private sector providers and The ELMS is run by a charity provider.

Figures are out of a total of 148.

3. Monitoring Care Homes

Who monitors Southwark Care Homes?

- Southwark Care Homes are monitored by the CQC, Southwark Council and the voluntary Lay Inspectors Scheme, run by Age Concern Lewisham & Southwark.
- All care homes must be registered with the CQC and undergo periodic inspection and monitoring. The Council also separately monitors care homes where they have purchased placements.

Within the Council's ASC department, under the commissioning side, there is a **Contracts Monitoring Team** (CMOfficers) who monitor all spot contracts and Anchor Homes in Southwark. The team work from a monitoring framework which includes monitoring visits; planned and unplanned, service user feedbacks and activity reports submitted by service providers. The CMO team work with both Lay Inspectors and the CQC as part of its monitoring framework.

Lay Inspectors also have the independence/authority to visit unannounced without Council officials, as well as announced with Council officials. They aim to provide a 'human perspective' away from regulations. **CQC** have designated Southwark inspectors as well as a Southwark Performance Manager.

Out of borough placements are monitored through issues raised by residents, families or issues that may become apparent during social work reviews of residents. Information on that borough, embargoes, past issues and current issues are also monitored.

There is some uncertainty regarding the exact monitoring mechanism of homes outside of the borough, as well as the auditing of this information, whether this is done in retrospect or proactively.

4. How is a Care Home placement paid for?

Once it is determined that a Care Home placement is required, it must then be determined who will pay for this. The potential resident is financially assessed by the Council following national guidelines known as CRAG

(Charging for Residential Accommodation Guide). The outcome of this assessment will determine how *much the council will contribute* and *how much the individual needing the care will have to pay through* their private means.

A care home placement can be paid: *entirely* by the local authority, in conjunction with *Council support* or *entirely self-funded*.

In contrast, a *self-funder* will pay their full care home costs, if they choose to bypass council assessment, or, are not aware of council assessment, or, if the council financial assessment has determined that the individual is financially capable to fund the entirety of their care needs privately.

Note: there is a different funding policy for Home Care.

What is taken into account?

When calculating the resident's contribution to their care home costs, *capital* and *income* is taken into account. There is an upper threshold of £23,250 and lower threshold of £14,250. Residents with capital above the upper threshold may have to pay the full cost of the care home. Capital value below the lower threshold will be eligible for council support. Residents with capital between these two values will have part of their costs met by the council.

There are different rules concerning married couples, dependent relatives, temporary residents and property ownership issues. The Council will follow the CRAG in applying these rules. More detailed information can be available on the department of health website or at the Council link below.

http://www.southwark.gov.uk/info/200091/services_for_adults/781/residential_care

Capital refers to payments that does not relate to a specific period and not intended to form part of a series of payments. It can refer to buildings, land, national savings, premium bonds, stocks and shares, savings in building society accounts/current accounts and trust funds.

Income represents a payment that is made in relation to a period that forms part of a series of payments. They do not have to be received regularly. Income can be taken fully into account partly or fully disregarded. Income received is calculated so that the amount is equated to a weekly basis.

What happens to a resident's property during the admission to a Care Home?

Last year a consultation took place by the government to look into the sustainability of funding for social care and support. This was known as the Dilnot Commission. While the Dilnot Commission has published its findings and recommendations in July 2011, there are no firm proposals on how to take forward the reform of social care funding.

The current situation is:

- If the resident is a permanent care home resident, the resident's main property is disregarded for the first 12 weeks of stay, after this period the residents property will be taken into account during their financial assessment. If the property is occupied by a partner or relative who meet the criteria (specified in CRAGs), then it is also disregarded
- if the individual does not have adequate income or capital after excluding the property value to meet the care home fees, the individual will be offered a "deferred payment" option. This means the value of care home fees will be deducted from the property value after the individual has passed away.