



Putting Rights at the Heart of Housing with Care

This viewpoint identifies the key rights of tenants and leaseholders living in Housing with Care (HWC) and presents findings from recent research conducted for Joseph Rowntree Foundation on how rights are promoted and viewed in HWC. It considers how a rights-based approach can promote older people's quality of life and providers' objectives and offers practical examples and resources to support this.

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Based on research conducted by Imogen Blood, Jenny Pannell and Ian Copeman of the Housing and Support Partnership, supported and reproduced with permission of the Joseph Rowntree Foundation.

March 2013

Introduction

With the launch of the Department of Health's £300 million Care and Support Housing Fund, the Housing with Care (HWC) sector faces exciting opportunities over the next couple of years to increase the amount, diversity and affordability of retirement housing. HAPPI2 (All Party Parliamentary Group on Housing and Care for Older People 2012) seeks to promote best practice in the *design* of new build schemes. Yet recently published research from the Joseph Rowntree Foundation's (JRF) *Better Life* programme (e.g. Blood et al 2012a, Owen et al 2012, Katz et al 2011) also reminds us that, although design, location and affordability are all vital, it is the relationships and the communication with staff which older people (especially those with high or increasing support needs) often value the most.

"It's the staff that make this such a good place to live"

HWC Resident in Blood et al (2012b)

Another recent publication from the JRF programme (Croucher & Bevan 2012) considers what providers can do and are already doing to create an 'ethos of respect and tolerance' in their schemes and how this can support better relationships between diverse residents and a stronger sense of community.

How a provider selects, trains and supports its frontline staff; whether and how it seeks to involve its older residents; how seriously it takes the customer experience; and whether it takes steps to encourage an inclusive and supportive community are all ultimately driven by its values. As house builders are being urged by the All Party Parliamentary Group (2012) to "*use their entrepreneurial and marketing skills to accelerate the trend toward retirement housing as a lifestyle choice*", it feels timely to consider whether and how we can within this promote the values needed to deliver not only good customer experience but also voice, choice and control for tenants and leaseholders.

To what extent has an increasingly diverse marketplace, in which many providers of HWC do so in order to make a profit, led to a divergence away from the original values of 'social responsibility' which motivated those providing charitable or council housing to older people? Recent scandals involving private providers, like that at Winterbourne View, may have led some of us to question the values of some of the private sector; yet in our recent research on HWC for the Joseph Rowntree Foundation (Blood et al 2012a and 2012b; Pannell et al 2012), we found plenty of examples of good practice in the private sector. As one dementia specialist pointed out, the private sector can typify both extremes: she felt that 'some of the best examples of dementia provision are in the private sector and some of the worst'.

Most older people do not want to feel that they are beneficiaries of charity; they are also understandably wary of being taken advantage of by those seeking to make a profit. In this Viewpoint, we argue that both private and not-for-profit providers and older people living in HWC can benefit from re-focusing on the concept of rights and putting a rights-based approach at the heart of HWC:

- Because it moves away from the paternalistic approach in which older people need looking after and protecting, to an approach which recognises them as equal citizens and active consumers;

- Because there is a strong business case here for providers – both in terms of building a good reputation as a trusted respecter of rights (think of the housing equivalent of John Lewis) and in terms of managing schemes better (because people who understand their rights are more likely to also understand their responsibilities);
- Because rights – and hopefully awareness of them – are increasing for older people (through the implementation of the age discrimination provisions of the Equality Act 2010, and with the work of the Commission on Dignity in Care for Older People (2012)) and for leaseholders (e.g. with the Right to Manage). It is better for everyone if schemes can get it right from the beginning.

Why have rights got such a bad press?

Despite these drivers, there is evidence to suggest that rights are not well-understood by residents, relatives, staff, providers and commissioners. In its inquiry into home care for older people, the Equality & Human Rights Commission (EHRC 2011) found that, although many commissioners make reference to the Human Rights Act in their specifications, very few spell out what difference it should actually make to service delivery. Garwood (2010) expresses concerns about the seemingly low levels of awareness of rights under the Mental Capacity Act 2005 by managers and staff in HWC schemes.

In our recent research (Blood et al 2012b), some HWC providers told us that social workers and health care professionals tended not to understand housing rights and we picked up a sense of suspicion about rights from a number of the different stakeholders we spoke to. For some, rights felt like something which got in the way of a person-centred approach; for example, staff not feeling able to tell a resident that her neighbour and friend has gone into hospital for fear of breaching the neighbour's right to confidentiality. In other instances, rights were felt to be used as an excuse for not doing something or withdrawing a service, like withdrawing staff support for organising social activities because residents have the right to choose and lead their own.

Macadam and Bowers (2008) point out that human rights have got a 'bad press' and argue that further work is required to bring them out of the courtroom and develop understanding in the sector of what a 'rights-based, person-centred approach means, and what it involves, both in policy and in practice, for older people who need support'. A number of reports and initiatives have begun to do this in health and social care (e.g. Joint Committee on Human Rights (2007), Scottish Human Rights Commission: *Care about Rights?* initiative); we hope that this Viewpoint will start the ball rolling in HWC and other retirement communities.

We begin by considering which rights are particularly relevant to HWC and other housing for older people and whether and how these can be enforced. This Viewpoint builds on our research study, *Whose Responsibility?* for JRF (Blood et al 2012b). We describe here examples of rights being promoted or tensions occurring, which were collected during our fieldwork but are, for the most part, not contained in the final report. We end by reflecting further on the challenges and opportunities of a rights-based approach and presenting some practical examples and resources which we hope will stimulate discussion and development in this area.

Which rights are relevant to HWC and are they enforceable?

Housing rights

In the sense that HWC is 'housing first' and the tenants or leaseholders have housing rights within it, HWC is inherently 'rights-based'. As Bowers *et al* (2009) point out, older people who are no longer able to remain in their own homes often move from outright ownership to total loss of housing rights as a resident in a care home; so the security of tenure and privacy offered by HWC can be an attractive alternative.

Housing rights (and the redress available to enforce them) depend on the form of tenure:

- For tenants, the different types of tenancy;
- For owner-occupiers, whether the property is a freehold house/bungalow or is leasehold (usual for flats/apartments)

The tenancy agreement or lease sets out the legal basis of occupation. Tenants' rights in England are mostly derived from the various versions of the Housing Act, for example, Assured Tenancies were introduced by the Housing Act 1988. Most leaseholders' rights are set out in the Landlord and Tenant Act and revisions and, more recently, in the Commonhold and Leasehold Reform Act 2002.

Home-owners in HWC consider themselves different from tenants, and there can be tensions between them in mixed-tenure schemes (see for example Croucher 2008, Evans and Means 2007). However, 'leasehold ownership of a flat is simply a long tenancy, the right to occupation and use of the flat for a long period – the 'term' of the lease' (LEASE, ARMA & ARHM 2011). In HWC, the landlord owns the freehold and has significant powers under the lease, including (usually) the appointment of the managing agent. In non-retirement housing, leaseholders sometimes own the freehold through shares in a resident management company, so they are effectively their own landlord, but this is rare in owner-occupied HWC. Aspen Retirement Ltd offer a different approach to the freehold-leasehold model in retirement housing. In their Owners' Company Model, the freehold transfers to a Registered Provider but the individual owners have a share each in the ownership of the not-for-profit scheme management company.

In social rented HWC, most tenants will have an assured tenancy with a charity or housing association, unless they live in HWC provided by an almshouse charity. Assured shorthold tenancies provide no long-term security: they are used by private landlords and sometimes on a temporary basis for HWC purchasers who move in before they have sold their property.

The main tenancies in social housing are assured tenancies (for housing associations) and secure tenancies for local authority tenants. Importantly, both assured and secure tenancies give people the right to stay in their home as long as they want, provided they keep to the tenancy conditions. The landlord has to go to court to evict the tenant and the court decides, so the tenant has a high level of legal protection. The disadvantage of other forms of tenancy is that they are time limited, including introductory tenancies (social housing) and assured shorthold tenancies (used by most private landlords): the landlord can terminate the tenancy at short notice and the tenant has no redress. Almshouse charities do not grant tenancies: their residents (like people in care and nursing homes) are legally 'licensees' (Pannell 1999; Pannell 2013).

The tenancy agreement or lease sets out rights and responsibilities of both parties (landlord/freeholder and tenant/leaseholder) and includes:

- The responsibility to pay service charges (tenants and leaseholders), rent (for tenants), ground rent (for some leaseholders);
- Responsibilities for repairs and maintenance divided between the tenant/leaseholder and the landlord/freeholder, including provision for major repairs for leasehold HWC (sometimes through a reserve or 'sinking' fund, or through exit charges when the property is sold);
- The right to 'quiet enjoyment' i.e. to live in the property peaceably and without interference or disturbance from others (including neighbours and the landlord/freeholder or their agent): this includes the right to say who can, or cannot, enter your home (subject to certain provisos, especially allowing reasonable access to the landlord/freeholder/ agent to carry out repairs);
- Conditions concerning occupation, including restrictions on pets, and on who can live in the property (e.g. minimum age; no more than one/two people; sometimes the level of care needs); and
- For tenants, an obligation to occupy the property (excluding absences for medical reasons e.g. hospital) and not to let or sub-let to someone else.

In leasehold HWC, the lease will also cover whether or not the leaseholder (or their executor) can rent the property out and, if so, to whom. With the introduction of the Commonhold and Leasehold Reform Act 2002, private leaseholders also gained the right to form a representative board and take over the management of the scheme (the Right to Manage). Note that this does not apply on mixed tenure schemes, if the landlord/freeholder is a housing association (i.e. a Registered Provider) or a local authority, or for shared ownership models (including HWC provided by some charities).

More generally, there are also extensive housing rights established over centuries through the civil and criminal legal systems, which include protection from eviction, harassment and disrepair (Arden et al 2012).

Rights are only as good as the mechanisms to enforce them. Housing rights can be enforced through the courts, and through specific channels such as the Leasehold Valuation Tribunal which has extensive powers (e.g. service charges, managing agents: see LEASE *et al* 2011). However, older people are less likely to understand or enforce their housing rights (see for example interviews with older private tenants in Carlton *et al* 2003). Some of these rights are collective (e.g. Right to Manage) and are only enforceable if there are enough people who are willing and able to get involved, so could be less likely if a majority of residents have high support needs, and/or lack the confidence and skills to organise and follow through such a course of action, even with professional help (Age UK 2012).

The most likely situation in which a HWC resident (and advocates such as family members) will not know of (or enforce) their right to security of tenure is if they are ill (in hospital or in HWC) and are told that they cannot stay in HWC because their care needs are too great (or too costly). Health and social care staff may not have a very clear understanding of housing rights. There is anecdotal evidence that tenants (and family members) may be 'persuaded' to give up their tenancy, without any consideration of their housing rights or alternative care approaches (personal communication, advice agency staff, 2012).

Rights to care and support

In contrast to housing rights, the rights to receive support and social care in HWC are much weaker: there is a right to an *assessment* for social care, but there is no right to support with public funding. Even assessed needs may not be met and HWC residents above certain income and capital limits will have to self-fund (Pannell et al 2012 discusses this in more detail), though this may give them a wider choice of options (Commission on Funding of Care and Support 2011; Marchant 2011).

Standards, guides and codes of practice

There are a number of good practice standards which may apply to older people living in HWC, depending on their tenure and the types of services they receive. These include:

- Consumer Standards within the Regulatory Framework for Social Housing in England (Homes and Communities Agency 2012);
- Essential standards of quality and safety (Care Quality Commission 2011);
- Association of Retirement Housing Managers' Codes of Practice for England, Wales and Scotland (ARHM 2005, 2009, 2010) – please note that, at the time of writing, the ARHM was consulting on a revised version of the Code of Practice (see www.arhm.org); and
- Guidance on sheltered housing, e.g. on support, complaints and tenant involvement (e.g. that produced by the Centre for Housing and Support; Hasler and Davis 2010; Hasler et al 2010).

All these set out what service users can expect from providers in relation to: consultation and user involvement (Shand 2012); the quality of accommodation and services; the skills and professionalism of staff; complaints procedures; and value for money. Because they are not legally enforceable, it is arguable whether they confer 'rights', although they may be taken into account by organisations such as the Housing Ombudsman and the Leasehold Valuation Tribunals. They can certainly provide ammunition for complainants and can help in advocacy and mediation.

Anyone using or receiving a service has the right to complain (Hasler and Davis 2010), initially to the provider but ultimately to the Housing Ombudsman or to the Care Quality Commission (depending on the nature of the service, the type of organisation providing it, and who is paying for it). Those who are buying their housing, support and/or care privately should also be covered by the Supply of Goods and Services Act 1982 which sets out your rights as a consumer to receive a service which has been carried out with 'reasonable care and skill, within a reasonable time and at a reasonable cost'.

The Human Rights Act 1998

Where housing associations are allocating and providing publicly-funded social housing on behalf of local authorities, they are legally bound by the Human Rights Act 1998. However, the Act is unlikely to cover private and some charitable providers of HWC and it does not currently cover the provision of care in your 'own home' (including HWC) which you pay towards and/or which is provided by a private or voluntary sector organisation (EHRC 2011). Despite these loopholes, initiatives such as *Care about Rights?* (Scottish Human Rights Commission), are working to promote a human rights-based culture in the care and support of older people. This is one in which providers (and commissioners) focus positively on what an older person wants and is entitled to in order to live as full a life as possible.

Of particular relevance to HWC may be:

- the right to participate in decision-making which affects you;
- the right to be free from discrimination;
- the right to be treated with dignity and respect; and
- the right to respect for your private family life, home and correspondence.

The EHRC (2011) argue that:

“A human rights approach provides an ethical framework for ‘person-centred’ decision-making by ensuring that rights are only restricted where proportionate and necessary”

(EHRC 2011, p.20)

Rights about capacity and decision-making

The Mental Capacity Act 2005 will be relevant for the significant numbers of HWC residents who have dementia or other cognitive conditions, mental health or learning disabilities, since it provides a framework for taking actions and decisions for someone who may lack the mental capacity to do so for themselves. The Act has five key principles or rights:

- that capacity should be presumed (it is time- and decision-specific);
- that individuals should be supported to make their own decisions as far as is possible;
- that people have the right to make unwise decisions;
- that others acting on their behalf must do so in their best interests; and
- that the option which least restricts the person’s other rights should be adopted.

The Act and its implications in HWC are covered in more detail in the Housing LIN factsheet no 20 (Garwood 2007) and in papers produced for JRF Better Life (Garwood 2010).

Rights under the Equality Act 2010

Tenants, leaseholders and staff are all covered by the Equality Act, which protects people from discrimination on account of their age; disability; sex; race; religion or belief; sexual orientation; marital / civil partnership status; and (of relevance to staff) pregnancy and maternity. It protects service users and employees from:

- Direct discrimination – where they are treated less favourably than others on account of one of these protected characteristics
- Harassment – which includes creating or allowing an environment which is hostile or offensive in relation to one or more protected characteristic
- Indirect discrimination – where a rule, policy, practice is discriminatory to a group in relation to a shared protected characteristic
- Victimisation – where someone is treated badly because they have raised a complaint

It also requires:

- All providers/ employers to make reasonable adjustments for disabled people
- Councils and some housing associations (those that are classed as ‘public bodies’) to demonstrate the proactive steps they are taking to promote equality (through the Public Sector Equality Duty)

The part of the law which protects older people from discrimination by service providers on account of their age has just come into force in October 2012. Policies which might favour or disadvantage older people are not banned but they will need to be 'objectively justified'.

How rights are promoted in HWC: findings from our research

Having outlined some of the specific rights which apply in HWC (but may also be difficult to enforce legally), we discuss 'rights' more broadly as general principles in this section, giving examples of how a rights-based culture can be promoted in schemes.

As part of the fieldwork for our housing with care studies for JRF (Blood et al 2012; Pannell et al 2012), we spoke to around a hundred older people living in twenty private and not-for-profit HWC schemes across the UK: most had (or were caring for a partner who had) high or increasing care needs, and many were partial or full self-funders. We found plenty of examples of older people's rights being promoted in HWC, especially when compared to their previous living arrangements and other alternatives (usually a move to a care home), and of staff seeking to balance different rights or the rights of different people within schemes and we present a selection of these here.

Our overall impression was that, compared to the problems highlighted in domiciliary care and care homes by EHRC (2011) and Bowers (2009) respectively, HWC is relatively successful at promoting older people's rights. However, we did identify some threats to this. Some of these seem to arise from organisational culture, from budgetary pressures and from the 'complexity' of HWC, including different providers, funding streams, regulators and commissioners. In our recent report for JRF (Blood et al 2012), we discuss in detail how issues of contested roles and responsibilities between the key players in HWC are generated by this complexity and the impact which this can in turn have on the rights and quality of life of older people.

The right to respect for private family life and 'quiet enjoyment' of your home

One woman, who needs high levels of care and support as a result of a longstanding physical disability, told us that she particularly appreciates having her own front door. Staff cannot just walk in when they feel like it but have to ask her. As somebody with high care and support needs, this housing right is important to her: it means she does not feel she is living in an institution.

We spoke to a couple who both have multiple disabilities and severe hearing impairments. Prior to HWC, they were living in one room of a flat which neither was able to get out of and were receiving a substantial package of visiting domiciliary care. Since moving six years ago, the scheme staff have worked with them to make their new home as accessible as possible, replacing carpets with laminates so they can move around independently in wheelchairs and fitting a hoist. Staff have supported them to increase the amount of care they provide to each other and reduce the input from care staff. They have also encouraged them to go to the restaurant for lunch and helped them to find ways of communicating with other residents. The couple told us that living here has given them their independence back and avoided an alternative move to nursing care, in which they may well have been separated from each other or not able to live as husband and wife.

In addition to meeting many couples who have been enabled to stay together and to care for each other sustainably by moving to HWC, we were also surprised to meet several couples who had met and decided to co-habit *since* moving into HWC. This seems to be in sharp

contrast to the typical residential care model in which everyone has a single bed, staff can come and go and there tends to be an assumption that no one still has personal and sexual relationships.

A number of those we interviewed – both professionals and older people – talked about the challenges of striking a balance between respecting residents' right to privacy with promoting their inclusion, both to counter isolation and to create a viable community for the sake of the whole.

“The manager emphasises that each person should do their own thing but our outlook is that this is a small community and this is a conflict, e.g. if a resident goes into hospital we are not told anything – it puts the staff in a funny position – we just want to be a neighbourly community, we are not wanting to pry into people’s private matters……. This boils down to the management being good enough to promote a good community spirit but still respecting individual’s privacy (in relation to confidential / personal matters).”

HWC Resident

Anti-social behaviour problems in HWC communities seemed, from our fieldwork and wider conversations, to be relatively rare. Where issues had arisen, either heavy drinking or advanced dementia seemed often to be a contributory factor. This can raise difficult dilemmas for providers, for example, trying to protect the perpetrator from harassment if their behaviour is linked to disability; and trying to find a compromise which protects the housing and human rights of all parties as far as possible.

One tenant told us about his former neighbour, an alcoholic who had young people drinking in his flat and had tried to rob him. His perception was that the scheme had taken very decisive action: *“If anyone has done anything wrong here, they’re out!”* However, another tenant told us ongoing problems with a neighbour were impacting very seriously on her quality of life and her rights:

“One [of the tenants] was supposed to move out three months ago, there’s been a court order, he hit me with his stick. I stay in my flat out of the way.”

HWC Resident

The right to be treated with dignity and respect

One woman has a moderate learning difficulty and moved to HWC from a family situation in which she was being exploited and abused by family members. She used the word ‘respect’ frequently when talking about her new life in HWC:

“The carers are wonderful people, they’ve got a lot of respect for me; we have a bit of a laugh to make me relax ... they give me a lot of privacy and respect”

HWC Resident

Being able to re-establish her right to be treated with dignity and respect has clearly helped her to re-build her confidence – another word she used several times.

The vast majority of people we spoke to were very positive about the way they were treated by staff: care staff were described as ‘respectful’, ‘like family’, ‘friends’: they ‘seem to be looking forward to looking after us’. Our evidence suggested that the human rights restrictions highlighted by the EHRC in domiciliary care in the community (EHRC 2011; Sykes et al 2011) are much less widespread for those receiving care in HWC. The HWC model does seem, on the whole, to be working to protect the rights of those receiving care to be treated with dignity and respect.

However, we identified organisational threats to this: some of the older people we spoke to were concerned about high turnover, agency staff and staff not having the time, skills or support to build relationships with them and find out *how* they wanted support tasks doing:

“I think some of the staff try to have an ‘us and them’ approach, but I don’t think this is their fault, I think the carers are told not to be too friendly with residents.”

HWC Resident

The right to complain

The EHRC (2011) inquiry *Close to Home* found that many older people receiving domiciliary care did not know they had the right to complain, did not know how to complain, or were not sure ‘which organisation was responsible for what’. As a result, many ‘stoically endure poor care without complaint, grateful to receive publicly funded care’.

The majority of HWC residents we interviewed were clear either that they did not have any complaints and that, if they did, they knew where to take them and were confident they would get an effective response. More often than not, they told us that the scheme manager or support manager ‘sorts it out’, but some people said they would take any problems to the care manager or their key worker. We also heard several examples of groups of HWC residents taking their complaints to commissioners; suggesting a collective confidence in the right to complain. For some individuals, living in HWC had had such a positive impact on their confidence and self-esteem, they felt they would now be able to raise problems if they needed to, where they might not before. For example, one tenant told us “Living here is a positive experience for me and it’s given me the confidence to speak up for myself”.

We did, however, find occasional evidence of some of the issues raised by the EHRC study of domiciliary care (2011). Some older people and professionals told us that residents tended not to complain:

“I think some residents grumble amongst themselves but won’t actually do anything when if they did speak with the staff, in my experience the problem is likely to be solved very quickly.”

HWC Resident

We also found some evidence of multiple roles and providers leading to confusion over who is accountable for what. This sometimes made complaining difficult or meant that providers had limited power to put things right, make amends or even feed back to the older person on the progress of their complaint.

The right to have a say in how the scheme is run

Moving beyond the right to complain, the right to be consulted and involved in decision-making is a central feature of the various good practice standards. A number of professionals, especially commissioners, regulators and government representatives, felt that resident involvement and effective consultation were vital to good commissioning, smooth transitions and outcome-focused services.

Our general impression from the fieldwork was that, as in the *Nobody's Listening* research (King *et al* 2009) this was not always happening as well as it might and that, when it did, there were a number of common obstacles. Quite a few older people told us that they felt there was little 'real' consultation over changes that affected them collectively, like changes to the décor of communal areas, the decision to open the building up to the local community, changes to providers, or the decision to include meals in the compulsory service charge. One man, who had previous experience of tenant involvement, pointed out that tenant representatives had not been included in regular meetings between the different agencies at his scheme and that no residents had ever been involved in the recruitment of staff. Others felt that providers or commissioners had not supported residents' committees and associations as much as they should and that, as a result, these had petered out or, had, in some cases been stopped without real explanation.

The leaseholders' right to manage sits near the top of the 'ladder of participation' (Arnstein 1969). Although their tenure, socio-economic status and professional backgrounds may make them more confident when it comes to exercising their rights, leaseholders still need to share a strong common grievance before they unite and decide to invoke this collective right. In preparing our Viewpoint 23 (Blood & Pannell 2012), we spoke to the chair of a Right to Manage Board in a large private sector 'full service' retirement development who described a number of ways in which the original managing agent had breached leaseholders' rights. This included: taking decisions without proper consultation; refusing to reveal their accounts; inflicting leaseholders with price rises and charges for uncalled-for works and sub-contracts with their 'preferred contractors'. The leaseholders formed a residents' association and 95% of them voted in favour of taking over the Right to Manage (RTM). They formed a RTM company and appointed a new managing agent, who runs the scheme on a day-to-day basis, and is answerable to the leaseholder board rather than the freeholder.

However, as the Age UK Residents' Inquiry into Sheltered and Retirement Housing (Age UK 2012) recently pointed out, *"taking overall managerial responsibility for a scheme requires a significant degree of legal and financial confidence"* (p.20). It can also involve a considerable amount of time, energy and stress. Norman Greed, the 82-year old leader of a RTM company in Somerset was interviewed by Channel 4 Dispatches (2012) and he explained that, although taking the RTM was the right thing to do and it has led to an improvement in both service and value for money:

"I purchased this expecting to have a stress-free retirement, but since I've been here, I've spent many, many hours trying to make things easier and more successful for everyone. This isn't what I came here to do really."

Although it is positive that older leaseholders have been able to exercise these rights and increase their control over the schemes they live in, it clearly would have been better if things had worked well from the start. In the next section, we consider some practical ideas and resources to help providers put rights at the heart of HWC.

Practical ideas and resources for providers

Clarifying who is entitled to make which choices

Hanover Housing Association has developed a guide (Hanover 2012) which sets out the choices which can be made by individuals, those which can be made by residents collectively and at an estate-level (through Local Agreements), and those which are retained by Hanover as landlord and employer. Croucher and Bevan (2012) describe the Local Agreements, which are made by developing and recording a consensus amongst residents around issues such as pets, use of communal facilities and parking, and have created a cultural shift in promoting residents' rights and increasing their control over schemes.

www.hanover.org.uk/supporting-services/help-sheet-documents/Choices%20-%20Help%20sheet%2045.pdf

Communicating your values through your promotional material

St Monica's Trust (a not-for-profit HWC provider in the South West of England) website includes a section on 'Why we're different'. In it they set out their commitment to choice and control, dignity and respect and a number of other topics which residents have identified as being central to their wellbeing. They outline the practical steps they are taking to promote these rights. In the part of the site aimed at prospective employees, they set out the values and skills they are looking for in their employees in order to deliver this agenda, which has again been developed in partnership with residents.

www.stmonicastrust.org.uk (See also Blood et al 2012b for further details)

Helping frontline staff to put rights at the centre of their practice

Although targeted at Scottish care workers working with older people, the *Care about Rights?* (Scottish Human Rights Commission) free online training resources include a range of short video interviews, filmed scenarios and tools which will be relevant to those working in the HWC sector across the UK. As one commentator points out, "*It isn't new and different or extra, rights provide a reference point: a way of thinking more consciously about what you're already doing*".

www.scottishhumanrights.com/careaboutrights

Helping your residents understand their rights

McCarthy & Stone understand that there is a strong business case for ensuring that their residents and those considering buying their properties fully understand their welfare rights. Since 2011, they have employed a specialist adviser, based at head office, who provides advice to older people (through a freephone number, e-mail correspondence, or presentations at local schemes) and training to staff. The service is promoted by local staff and through the web site, quarterly magazine and marketing/ welcome packs. See Blood et al (2012b) for more details.

Providing assured tenancies in retirement developments

Girlings is an independent, family owned company which deals exclusively with the age 55 plus market and let and manage 2,500 properties in over 500 retirement developments throughout the UK. Renting rather than buying can increase flexibility and financial freedom and Girlings' tenants also enjoy secured housing rights through assured tenancies.

“Renting in retirement has given us greater financial freedom and the flexibility to relocate. We have saved so much in terms of moving costs. We sold our house and we have retained that capital which has given us an investment for the future. We are now committed to renting and we love the fact that we have an assured tenancy so we essentially have the same security as homeowners.”

Denis and Sandra Honour, www.girlings.co.uk

Personalisation and rights in HWC

When properly understood, rights-based approaches undoubtedly have the potential to support the broad philosophy of personalisation, with its emphasis on person-centred planning and individual choice and control. Similarly a broad understanding of personalisation should be a good framework for ensuring that applicable rights are upheld. However, a pressing question for those involved in providing and receiving social care is whether and under what conditions personalisation *in the form of personal budgets* can promote the rights of older people living in HWC. As a new report from Think Personal Act Local and the Social Care Institute for Excellence confirms, personal budgets are ‘strongly embedded in policy as a key mechanism for personalisation’, which lies at the ‘heart of social care policy’ (Routledge & Carr 2013).

In our fieldwork, we met a few people (especially those with learning disabilities) who had been keen to retain previous support workers when they moved into HWC. We also met one or two people who preferred to use family members to provide their personal care – for example, one woman (and it may be significant that she was from a minority ethnic background) used her niece who was a professional care worker. However, for the vast majority of our participants, the key attraction of HWC had been and continued to be the provision of an on-site care team who they had got to know (often prior to receiving care) and could access quickly and flexibly. Exercising the right to choose providers is likely to be beneficial to only a small minority of HWC residents: having a good quality, affordable on-site team is vital for the vast majority.

Some providers expressed concerns that ‘micro-commissioning’ using personal budgets could threaten the core services and shared resources in HWC which most residents value so highly (even if they do not use them yet or very often). Interestingly, we met one man who told us that, although the in-house care team could not at present offer him the visits at the times that he needed them (which was having a significant impact on his quality of life), he wanted to give them more time to try and work things out, rather than bring in another care agency as his social worker had suggested. He explained “I know [the carers here] very well and they know me, I class them as friends so I wouldn’t want another bunch of strangers coming in”. The key point here is not that older people will shy away from voting with their feet out of loyalty (though this man did say that he was keen not to create bad feeling) but just how much relationships and consistency matter to those receiving care.

The HWC model depends on a critical mass staying with the on-site provider in order to deliver this consistency. For providers, the question is whether it is possible and desirable to require tenants and leaseholders to commit to using on-site provision or whether it is enough to make sure the on-site provision is so good that only those few individuals with particular preferences and circumstances will choose not to use it. This is a dilemma with which private providers (or others managing schemes with a high proportion of self-funders) are very familiar. For social workers and their managers, there are questions about whether and how personal budgets should be promoted in HWC: if you only promote them to those who you think will really benefit from opting out, is there a risk of making some of the ageist assumptions of which Routledge

and Carr (2013) warn? Yet setting up a lot of HWC residents on personal (or perhaps more realistically, managed) budgets for the sake of hitting targets seems like a waste of limited resources and risks unsettling providers, even if most of their tenants stay with the preferred provider. In their guide on affordability for the Housing LIN, Copeman and Pannell (2012, p.13) give some encouraging examples of local authorities who have tried to find a happy medium between individual choice and communal viability.

Final reflections

Several years ago (while preparing Law Society Scotland 2009), Imogen interviewed David Borrowman, Managing Partner at Caesar Howie, a Scottish law firm that set up the www.seniorissues.co.uk site, which provides free information for older people on their legal rights. He said that, in the past, there was perhaps a sense amongst lawyers that it was better if your client did not know too much at the outset and some questioned their wisdom in giving away free information. However, he is clear that this has made sound business sense for them, explaining:

“We find that a more informed client is actually a better client and that we get on better with those who are already ‘genned up’ about their rights, what they need and what they want to get”.

We believe this is also a good philosophy for those providing supported housing to older people and the social workers who may be involved in helping them set up the care they want.

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We would also like to thank Ilona Haslewood, Programme Manager at Joseph Rowntree Foundation for her support and feedback on this Viewpoint.

Note

The views expressed in this paper are those of the author, and not necessarily those of the Housing Learning and Improvement Network.

About the Housing LIN

Previously responsible for managing the Department of Health's Extra Care Housing Fund, the Housing Learning and Improvement Network (LIN) is the leading 'learning lab' for a growing network of housing, health and social care professionals in England involved in planning, commissioning, designing, funding, building and managing housing, care and support services for older people and vulnerable adults with long term conditions.

For further information about the Housing LIN's comprehensive list of online resources and shared learning and service improvement networking opportunities, including site visits and network meetings in your region, visit www.housinglin.org.uk

The Housing LIN welcomes contributions on a range of issues pertinent to housing with care for older and vulnerable adults. If you have an example of how your organisation is closely aligned to a 'Living Lab' approach or a subject that you feel we should cover, please contact us.

Published by

Housing Learning & Improvement Network
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Tel: 020 7820 8077
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