Managing risk: lessons from Southern Cross for the specialist housing with care and support market

This paper was commissioned by the Housing Learning and Improvement Network (LIN) to ascertain whether the recent failure of Southern Cross residential care homes could occur in the extra care housing sector. It provides a thorough market assessment of the state of specialist housing with care for older people, outlines the sector’s exposure to fluctuating capital and revenue funding levels in the light of the present economic climate and policy reform. It makes a number of practical suggestions that commissioners, developing organisations and providers of specialised housing should consider as part of their approach to risk management, and signposts to further resources from the Housing LIN that can help plan, design and deliver housing that older people want.

Written for the Housing Learning & Improvement Network by James Berrington, Independent Consultant, with additional contributions from Jeremy Porteus

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Housing LIN

Contents

1. Introduction ................................................................. 2
2. Operating context ..................................................... 2
3. Specialist housing with care and support .......................... 3
4. Developing and managing specialist housing .................... 4
   4a Capital funding ..................................................... 4
   4b Revenue funding ................................................... 5
   4c Development and management roles - who is responsible for what? .................................................. 6
5. Understanding the market ............................................. 7
   5a Size of market ....................................................... 7
   5b Market providers - housing with care and support ........ 9
6. Market oversight ....................................................... 9
   6a Market oversight - local market development .............. 9
   6b Market oversight - service commissioning ................. 10
   6c Market oversight - regulatory frameworks .................. 10
7. Managing market failure - potential causes and impact of provider failure ................................................. 12
8. Challenges, opportunities and action ............................. 13
About the Housing LIN ....................................................... 16
Bibliography ................................................................... 16

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The views expressed in this report are those of the author and not necessarily those of the Housing Learning and Improvement Network.
1 Introduction

The government’s care and support White Paper\(^1\) has stated that it wants to stimulate the development of more housing options for older and disabled people and will set up a new care and support capital housing fund of £200 million, since increased to £300m.

The specialist housing with care and support market is a complex and growing one. This paper seeks to summarise how this market operates and the importance of local authority commissioners’ full understanding of the funding and operation of these housing models; in particular, the potential impact of local commissioning decisions on the market, risk and viability of individual schemes and providers.

The failure of Southern Cross has been seen as a wake-up call to local and central government that complacency about the stability of the residential care market is not an option. Following a discussion paper on lessons learnt from Southern Cross published in October 2011\(^2\), the social care White Paper sets out the principles that will inform any future action. The government will publish consultation in the Autumn on oversight of the social care market including details of how people will be protected should a care provider run into financial difficulties.

Similar concern should be focused on the housing with care and support sector, which although a newer, but growing, market also faces risk and viability issues particularly regarding capital investment and revenue streams. Better understanding is therefore required of the impact of local and national funding and commissioning policies and strategies on this market as well as on care home markets.

Specialist housing with care and support brings to light some key differences between social care contracting, house building and tenure. Developers borrow and take financial risks over 30 years; tenants and leaseholders have a home for life and an ongoing legal relationship with their landlords. However, care and support service contracts are relatively short (and not guaranteed to the owning organisation) and commissioning horizons certainly do not extend forward 30 years. Therefore, developing organisations take a risk when building expensive specialised housing schemes that revenue income will continue to flow, at a sufficient level, and that the scheme will be needed over the lifetime of that building. As these risks increase due to reduced capital grants, downward pressures on social care funding and welfare reform, local commissioners do need to have an understanding of how housing works and, in particular, extra care housing.

Whilst local social services authorities may have historically held a strong role in local markets through being the largest procurer of services, personalised services and a shift away from block contracts will mean that their role will increasingly be about facilitating, analysing and overseeing local markets. This paper is therefore primarily directed at local authorities with responsibility for social care, including commissioners of extra care housing, to assist their understanding of the scope and operation of the overall specialised housing with care and support market, its risks and dynamics.

2 Operating context

Health, social care, housing and welfare benefits are all in a process of major change in terms of national policy and local delivery. These changes alone would represent huge challenges, but they are being delivered in a climate of greatly constrained public expenditure, which looks likely to continue into the foreseeable future. This changing context will inevitably impact on the commissioning, development, funding and management and risks of specialist housing with care and support. However, it will also present new opportunities to innovate, such as creating new or adjusting existing models of service.

The future focus for health, social care and public health are broadly similar. That is, to move services upstream toward early intervention and prevention in order to maintain and improve good health, wellbeing and independence. This focus creates opportunities for specialist housing to link up with local authorities and health to provide and co-ordinate community based solutions linked to social care, health and public health outcomes. Specialist housing with care and support for rent, sale and/or shared ownership is a tested model that delivers these objectives.

The recently passed Health and Social Care Act set out the Government’s intentions for modernising the National Health Service. The government’s social care White Paper sets out its intentions for the future of social care. Importantly for the specialist housing with care and support, the government states that local authorities and the NHS will need to consider housing needs and resources when assessing the needs of their local area; and that where needs are identified and prioritised, local commissioning plans should take account of these. Additionally, the draft Care and Support Bill will set out new duties to be placed on local authorities to ensure that adult social care and housing departments work together.

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1 - www.dh.gov.uk/health/2012/07/careandsupportwhitepaper
3 Specialist housing with care and support

Specialist housing with care and support can take many physical forms, provide a wide range of services to residents and be for a number of different client groups. This complicated picture can be confusing to commissioners, the public, providers and developers. However, it does reflect the wide range of, often location specific, responses to meeting the housing, care and support needs of diverse populations. It also reflects the developing nature of this market, as ideas and models are developed, built, managed, learned from and improved upon in future schemes.

Specialist housing with care and support schemes are usually developed to meet the specific needs of different client groups, e.g. people with enduring mental health problems, people with learning disabilities, people on drug or alcohol recovery pathways. However, perhaps the largest group is older people, which is in itself very broad with an age range from 55 to 100+ and includes people who may still be employed, active retirees and those requiring care and support, ranging from low to intensive levels of need.

One way to see this spectrum of building types and levels of service, is as a matrix as suggested in the HAPPI Report (Housing our Ageing Population Panel for Innovation), which set out a range of housing types for older people. As the diagram below shows, ‘specialised housing’ with care and support sits as a separate group distinct from mainstream housing and care homes but forms a central part of a continuum of housing typologies where older people may live.

The different typology descriptions (‘extra care’, ‘very sheltered’, ‘assisted living’ etc) may in some circumstances all be very similar schemes, but named differently; there is currently no industry-standard definition of these terms. It is therefore highly important for local commissioners to fully understand the specialist housing with care and support market and provision in their area. Two schemes called ‘extra care’ may be very different in terms of the scale of the building and facilities, the number of units and type of tenure, the level of need catered for, the care and support services provided on or off-site and outcomes sought.

Care home or specialist housing with care and support?

In reflecting on, and learning from, the lessons of Southern Cross it is important to understand the differences and similarities between these two markets.

Care homes can perhaps be characterised as a more institutional type of accommodation (suites of bedrooms) with care services and facilities, whereas specialist housing, such as extra care, is importantly characterised as a type of housing provision with a focus on supporting residents’ wellbeing and independence, living in their own homes, with access to care and support services if and when needed. For further information see Housing LIN Factsheet 1 – Extra Care Housing, What is it?

Tenure

Care homes usually offer residents only a room, which they occupy under a licence, which conveys limited rights to the resident. Specialist housing with care and support (e.g. extra care) residents have exclusive possession of a one or two bedroom flat or house, and hold a tenancy (which confers certain legal rights and responsibilities above that of a licencee), or will own (or part-own) their

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3 - Housing our Ageing Population Panel for Innovation Report, Homes and Communities Agency (2009)
www.homesandcommunities.co.uk/housing-ageing-population-panel-innovation

4 - www.housinglin.org.uk/ library/Resources/Housing/Housing_advice/Extra_Care_Housing_-_What_is_it.pdf
accommodation as a leaseholder. Residents of specialist housing have a higher security of tenure, it is their permanent home. They have the right to be consulted over changes to the management of their home and any changes to services.

Social care commissioners need to have an understanding of the housing rights (and responsibilities) of residents when making changes to the delivery of care and support services, some of which may be part of the tenancy agreement or lease.

Extra Care Housing

The design of extra care housing schemes is integral to their success and perhaps also their complexity. The SHOP Toolkit5 published jointly by ADASS and the Housing LIN suggests that extra care housing is: “housing which has been designed, built or adapted to facilitate the care and support needs that its owners/tenants may have now or in the future, with access to care and support 24 hours a day either on site or by call.” Key principles of extra care are to: promote independence; empower and enable residents; and promote social inclusion.

The concept of extra care housing covers a range of different types of housing and services and whilst primarily seen as a type of provision for older people, the Department of Health’s 2008-10 Extra Care bidding guidance6 suggests that it may also be for both younger adults with long term conditions (mental health problems, learning disabilities).

Residents have their own self-contained flat and front door, with access to care and support services on site, which will provide the majority of residents with a home for the remainder of their life, regardless of changes to their care needs. Schemes may be very small (6-12 units), possibly linked to a care home; or they may be larger developments with apartments, houses, bungalows etc, sometimes called retirement villages, of up to 300 or more units. The self-contained units may be for sale, rent or shared ownership (see Housing LIN Design factsheets7).

Facilities will depend upon the size of the scheme and may include facilities for residents such as lounges and meeting rooms, hobby rooms and space and facilities for health or care staff; larger schemes may also have shops and a spa. Residents may have sole use of the facilities and services, or in other cases schemes are closely linked to the wider community who are able to utilise the facilities, or receive outreach support from the scheme. The HAPPI report brought together a set of 10 design recommendations, which should be included in all housing schemes for older people.

Commissioners need to understand the range of scheme types and sizes that may be termed extra care housing. They can be a small scheme of 30 flats with minimal communal facilities and care on site, or they can be a ‘village’ scheme of 200 + flats with extensive facilities open to the wider community and care services provided to both residents and people in the wider community.

4 Developing and managing specialist housing

The communal facilities in specialist housing which are additional to the self-contained accommodation can make extra care schemes an expensive type of housing in terms of capital funding requirements, particularly when compared to general needs housing. In terms of revenue or funding for running costs, the range of services provided: housing management; support; and care services, all need to be funded. Additionally the management of the communal facilities may also require funding, particularly when it is used as a hub or resource for the wider community. The Housing LIN website has a number of examples of schemes acting as hubs in rural as well as urban settings.

Due to the interdependence of capital and revenue and also the various streams of revenue, it is therefore important that commissioners understand how these connect and the potential unintended consequences of local commissioning or funding decisions on the overall viability of the scheme or provider.

4a Capital funding

The growth of specialist housing with care and support in England, particularly for older people, has been largely led by housing associations and charitable organisations. This has been partly due to their ethos as organisations, but also due to the availability of public finance through capital funding programmes from the Homes and Communities Agency (HCA) Affordable Homes Programme8 and the specific extra care capital fund from the Department of Health (DH). However, there is also a thriving and developing private market in specialist housing for older people with care and support, particularly housing for purchase.

HCA and DH capital funding does not meet all of the costs of new schemes, and is distributed through a competitive bidding process. Developing organisations have to source or borrow their own funding to minimize the proportion of
public subsidy requested to fund a scheme. This therefore increases the risk to the developer as they may be: using their own resources (including land and cross-subsidy from general needs housing); borrowing finance on the private market (e.g. mortgage), which needs to be repaid from revenue; or cross-subsidising units for rent from sales income (in extra care schemes). Land donated or sold at low cost by commissioning local authorities or health bodies can help reduce borrowing requirements, or reduce public capital subsidy required which may make the scheme more competitive. Further information on capital funding is set out in the Housing LIN Technical Brief 2, Funding Extra Care Housing.9

Whilst capital funding from the HCA for housing with care and support exceeded £1bn in 2008-11; this has since reduced considerably and the amount of grant available for each scheme has also been reduced, meaning that there is an increased reliance on alternative funding sources for developers and which will in turn increase the risks of development.

The Department of Heath has provided capital funding for the years 2011-12 and 2012-13 of £124m and £127m to local authorities that can be utilised for capital projects. However, this has not been ring-fenced and it is not known whether it has been used to develop new accommodation-based services. Most recently the government announced in the social care White Paper funding of £200m over five years from 2013/14 to encourage providers to develop new accommodation options for older people and disabled adults.

The complexity of developing and funding schemes can be illustrated by Housing 21’s Waltham House scheme in Wirksworth, developed in partnership between Derbyshire County Council, Derbyshire Dales District Council, the Wirksworth Care Centre Project; funding included discounted local authority land, £2.2m from Department of Health and land purchased from Derbyshire NHS.10

Housing associations are able to lever-in private finance at highly competitive rates as they are subject to statutory regulation. However, with reduced proportions of development costs being met by public grant funding, lenders are increasingly seeking additional security regarding future revenue income streams, for example longer term care contracts. But with the government’s drive towards personalisation and everyone eligible for care to have an individual budget, such contracting could become a thing of the past. As a result, despite capital funding, uncertainty in long-term care revenue income could further expose developing organisations interested in getting involved in the specialised housing market (see 4b below).

4b Revenue funding

Revenue income in specialist housing schemes will come from a range of sources connected to different aspects of the overall service. This is set out in detail in the Housing LIN’s Technical Brief 1, Care and Support in Extra Care Housing.11 Commissioners need to develop an understanding of the interdependence of the revenue streams, not just for the service they are paying for. Change in funding levels from one source can have a knock-on effect on the overall scheme viability.

Income from residents (tenants & leaseholders)

Residents will be responsible for a range of charges that will either be included in their tenancy agreement or lease, or included in a separate care or support agreement. The amounts charged will vary, reflecting the services provided and their associated costs. Charges may include:

- Rent
- Service charge (communal heat, light, services, lifts etc)
- Service charge (personal heat and light)
- Support charge (housing related support / Supporting People)
- Care charge

The resident may be entitled to assistance, for example Housing Benefit, or free care. This will be determined by the local authority Fairer Charging assessment if the resident meets the FACS eligibility threshold applied by the council.

For schemes where there are high numbers of publicly funded residents, housing associations governing boards and lenders also have concerns regarding the impact of future welfare reforms on revenue streams and potential shifts in local social care commissioning models and practice.

Income from care and support contracts

Payment for the care services in schemes will come from residents, families and the local authority (where assessed eligible). This income will go to the care provider who may or may not be the owner/manager etc. However, changes in hours of care and the quality and cost of this will have an impact on other services; for example, housing staff may be called upon more by residents who have their care hours reduced.

10 - Breaking the Mould – Re-visioning older people’s housing, NHF (2011) www.housing.org.uk/publications/find_a_publication/care_and_support/breaking_the_mould_re-vision.aspx
Capital and revenue links

There is a strong and extremely important link between capital and revenue. The higher proportion of the capital development costs funded through a loan, the higher the proportion of the revenue income is required to service that debt and is not available to pay for day to day running costs and management.

Reduced levels of publicly funded capital grant, has meant that the level of risk taken by developing organisations increases. Housing association boards and financial lenders are therefore seeking higher levels of security from revenue streams; for example, in the form of longer-term care or support contracts.

If commissioners wish to see a buoyant specialist housing with care and support market to meet the needs of their clients, they need to be aware that increasing risks can impact on developing organisations’ willingness to develop new schemes. Crucially, these risks and the impact of commissioning decisions may also impact on scheme viability and organisations’ ability or willingness to remain within the market. This could result in no new extra care housing for example or the closure or reprovisioning of existing provision.

Therefore, with reduced availability of capital funding sources, it is important for both developers and commissioners to look more creatively and collaboratively to fund new accommodation-based services.

4c Development and management roles - who is responsible for what?

As is highlighted in the Housing LIN Technical Brief, arrangements for the commissioning, development and management of specialist housing with care and support can be complex; different organisations hold responsibility, are contracted and carry risks for different aspects of the overall housing care and support service to residents. The inter-relationship between these roles (and associated funding streams) is key for the ongoing viability and quality of service and in ensuring a seamless service to residents.

i) Commissioner

Local authorities have a responsibility to identify need in their local area, working in partnership with others for example through Strategic Housing Market Assessments (housing led) and Joint Strategic Needs Assessments (health and social care led) and then agree and set strategies and priorities for services. It will be on this basis that authorities commission services to meet those needs.

Different local authorities take different approaches to the commissioning of new specialist housing with care and support services. For example, some see it as a care service and do not work in partnership with, or involve the housing department. Others will see joint working with the housing department as crucial, embed priorities for investment in this housing type into housing strategies as well as social care strategies. Some authorities have identified specialist housing with care and support as key components of regeneration, often with schemes and community-facing facilities acting as a hub and flagship scheme in taking age-friendly communities forward.

Whether seen as a stand-alone scheme or part of wider housing strategies, local authorities need to identify and specify what is sought in a particular area (number of homes/units, scale, location, outcomes sought etc), or may set out the needs and invite developers to identify detailed solutions and bring forward proposals to meet those needs.

ii) Developer

Due to the high costs and potential risks of developing extra care housing, a developer will seek to meet identified local needs to ensure a full and viable scheme. Need may have been identified through the developer’s own intelligence gathering and research, or articulated in local commissioning and housing investment strategies. At an early stage, the developer will need to identify the overall scope of the scheme, the services and facilities required, the size, range and number of units, and the proportion of units that will be for rent or for sale. All of these will indicate the overall capital cost of the scheme and importantly also the potential revenue income that will pay for the management of the scheme and the servicing of loan funding.

The developing organisation will secure the capital funding to build the scheme; which may include bidding for public funding; for example from the HCA. It may also include contributions from their own financial reserves or cross-subsidy from their mainstream housing developments. However, a substantial part of the costs will be met by a loan or mortgage that will need to be repaid from the income of the scheme. Reductions in availability and levels of public capital funding are increasing the proportions of costs met from loans and other resources which increase the ongoing risks for the developer in paying back the debt, possibly over 30 years.

iii) Landlord

The landlord will have ongoing legal ownership of the building; will be responsible for the management including setting the rent and charges and issuing tenancies or leases. The landlord may be the same organisation as the developer and, if a social housing provider, the landlord is required to meet the regulatory standards of HCA. The landlord usually provides the housing management service, but it may be outsourced.

iv) Housing manager

Housing management will be similar to that found in mainstream housing, but will include a greater degree of communal facilities. The role includes allocations and
letting of property, which will require close liaison with the care and support teams and local commissioners. Responsibility will also be for the management of tenancies or leases, rent collection and the day-to-day and cyclical management and maintenance of the fabric of the building, flats and communal areas. The HCA’s consumer regulatory standards will apply including tenant involvement and empowerment, home, tenancy and neighbourhood and community. The housing manager may be the landlord or be sub-contracted by the landlord.

**v) Support provider**

In addition to care services, the scheme may be separately or additionally funded to provide housing related support, which has historically been contracted by the local authority utilising Supporting People resources, though may now be part of a single care and support contract. The support provider will be responsible for delivering low level and preventative services to residents and which may be linked to the housing management service, or it may be linked to the care contract and service.

**vi) Care provider**

The provider of publicly funded care services in a specialised housing scheme is likely to have been commissioned and work under contract to the local authority. Many developers and landlords of specialist housing will seek to provide the care service, and have control over the full range of services delivered within their building. Indeed, many will not take the risk of development without guarantees regarding care contracts. However, due to local commissioning requirements, many local authority care contracts are subject to competitive bidding.

In a fully private scheme, where residents own their properties and there are no local authority referrals, it is likely that the overall owner/manager of the scheme will also be the care provider or will work in partnership with a care provider.

The organisation and services provided as part of a care contract, have to be registered with the Care Quality Commission. This provider may be the same organisation as that which developed and owns the scheme and carries out the housing management and support functions, or a separate organisation.

Where the care provider is separate, liaison between parties is essential to ensure mutual understanding of regulatory requirements and constraints and also to ensure smooth service delivery to residents.

With increases in personalisation of services for residents it may be that more than one care provider may deliver services within a scheme. Whilst many scheme owners and managers are keen to support increased choice and control for their residents, there are concerns over the impact on viability, some have taken the approach that the choice of care service was made on entering the scheme, others insist on a minimum care service (e.g. night cover), whilst offering choice and flexibility with the rest of the care hours. Commissioners need to ensure they understand the financial dynamics of schemes so that personalisation can be introduced, but not at the expense of scheme viability.

**vii) Management of communal and day facilities**

The housing manager may also hold responsibility for the management of communal facilities such as catering facilities, hairdressing, shop, laundry, hobby, activity and health treatment rooms. However, there may be separate organisations that are responsible for the delivery of services and functions within these spaces. This role may additionally include liaison with the wider community generally and specifically where facilities are open to the wider public.

Commissioners need to have an understanding of the operational functions of a specialist housing scheme and the interdependence of these on successful delivery of services to residents. Changes to any of these roles and levels of services may have a knock on effect on others, e.g. reduction in housing related support funding (Supporting People) may reduce the availability of staff to assist residents getting to communal facilities to participate in activities, or treatments, contrary to the aims of such a scheme.

5 **Understanding the market**

The social care White Paper has proposed that local authorities develop online services that provide people with more consistent and accessible information about local care and support options, which will include the specialist housing with care and support market.

Calculating the exact size of the specialist housing sector in terms of provision is difficult due to the complexity of the market, such as the varied scheme types, the range of public and private providers and lack of consistent national definitions and data collection. Therefore, commissioners need to develop an understanding of the scope and range of their local specialist housing market. To this end, the Housing LIN, in association with the Association of Directors of Adult Social Services (ADASS), have published a useful Resource Pack, ‘Strategic Housing for Older People: Planning, designing and delivering housing that older people want’, available at www.housinglin.org.uk/SHOP_Resource_Pack

5a **Size of market**

The specialist housing with care and support market is currently relatively small, but is growing. The CQC has reported, in its State of Care Report 2010-11 that “the sector has seen expansion in models of provision such as Extra Care housing”. The National Housing
Federation\(^\text{12}\) report that only 5% of all older people live in retirement housing, with a small proportion of these living in specialist housing with care and support. Professor Michael Ball\(^\text{13}\) suggests that only 15% (84,000) of the 560,000 specialist independent living dwellings for older people in England are specialist housing with care and support.

Collection and dissemination of data (through Guardian Datablog\(^\text{14}\)) was an important part of the work carried out by ADASS following the failure of Southern Cross. Whilst there is no single body that collects data on the entirety of the specialist housing for older people sector, two key sources are extremely useful in giving a best approximation of the scale and spread of the sector. Elderly Accommodation Counsel (EAC) surveys organisations registered on its website and is probably the most comprehensive data source in England.

The Elderly Accommodation Counsel (EAC) data divides housing stock into two groups: housing with support services (which could include traditional ‘sheltered’ housing); and housing with care services (which includes accommodation such as extra care, very sheltered, assisted living etc). They report over 55,000 units of housing with care, which is a tenth of all specialist housing for older people.

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<th>Rent</th>
<th>Sale</th>
<th>Total</th>
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<tr>
<td>Housing with support</td>
<td>368,848</td>
<td>108,678</td>
<td>477,526</td>
</tr>
<tr>
<td>Housing with care (incl extra care housing)</td>
<td>40,449</td>
<td>15,226</td>
<td>55,675</td>
</tr>
<tr>
<td>All specialist housing</td>
<td>409,297</td>
<td>123,904</td>
<td>533,201</td>
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Source: Elderly Accommodation Counsel February 2012 \(^\text{15}\)

In terms of the numbers of extra care schemes (not units of accommodation), the EAC suggest that there are 821 extra care schemes in England\(^\text{16}\). Whereas, the Care Quality Commission\(^\text{17}\) suggests that there are 564 Extra care locations. This perhaps highlights Laing & Buisson’s UK Market Report\(^\text{18}\) health warning on accuracy of data due to the lack of nationally agreed definitions.

The complex nature of the sector and wide variances in scheme types has meant that there is no nationally agreed definition of specialist housing with care and support. Whilst there is concern regarding the risks and security across the sector, no single body has overall scrutiny of the sector or systematically collects data. The data collected by EAC is probably the most comprehensive resource and may be a solid and trusted foundation to build upon in terms of data.

Local commissioners need to develop a strong understanding of the size, scope of service, and tenure mix of their local specialist housing with care and support market. Data such as from EAC may be a good starting point and further local intelligence gathering may also be required.

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12 - Breaking the Mould, re-visioning older people’s housing. (NHF 2011) [www.housing.org.uk/publications/find_a_publication/care_and_support/breaking_the_mould_re-vision.aspx](http://www.housing.org.uk/publications/find_a_publication/care_and_support/breaking_the_mould_re-vision.aspx)
13 - Housing markets and independence in old age: expanding the opportunities (Professor Michael Ball, Henley Business School, University of Reading, 2011) [http://tinyurl.com/HousinginOldAge](http://tinyurl.com/HousinginOldAge)
15 - [www.housingcare.org/eac-services.aspx](http://www.housingcare.org/eac-services.aspx)
18 - [www.laingbuisson.co.uk/MarketReports/MarketReportsHome/tabid/570/List/1/CategoryID/7/Level/1/Default.aspx?SortField=DateCreated%20DESC_ProductName](http://www.laingbuisson.co.uk/MarketReports/MarketReportsHome/tabid/570/List/1/CategoryID/7/Level/1/Default.aspx?SortField=DateCreated%20DESC_ProductName)
19 - NROSH+ website: [https://nroshplus.homesandcommunities.co.uk](https://nroshplus.homesandcommunities.co.uk)
20 - [www.tenantservicesauthority.org/server/show/ConWebDoc.21432](http://www.tenantservicesauthority.org/server/show/ConWebDoc.21432)
5b Market providers

Who operates in this market?

There are a wide range of private and voluntary sector organisations developing and managing specialist housing with care and support including extra care housing. They provide a wide range of different products under this overarching title.

Of the Registered Providers (or housing associations), there are a number that specialise only in housing for older people; large organisations such as Anchor Trust, Hanover Housing Group, Housing 21, Extra Care Charitable Trust; and smaller local organisations such as Abbeyfield Societies. For other associations, housing for older people may form an important element of a wider housing portfolio (mainstream affordable housing to rent or buy and supported housing for other client groups). Housing could be for social rent, affordable rent, low cost home ownership or leasehold, and it is possible that there will be a mix of different tenures within a single scheme.

Privately owned and run specialist housing businesses, such as Audley Court, Retirement Villages, Retirement Security and Richmond Villages, tend to focus only on private rent or sale. Registered Providers are also increasingly developing schemes either for both rent and sale, or exclusively for sale, potentially blurring the boundary between these businesses, however they may well cater for different private budgets.

It is important for commissioners to fully understand the organisations operating in their area; they are not all the same. They will not all provide the same products or target the same strands of the housing for older people market and they will have different expertise, experience and expectations with regard to the different roles involved in specialist housing. They will also have different appetites, capacity and approaches to risk.

Large-scale providers

The Department of Health discussion paper on ‘Oversight of the Social Care Market’ of October 2011 stated that ‘the case of Southern Cross has led to concerns about the potential impact of a large-scale provider falling into financial difficulty’; however, there is no definition of what constitutes a large-scale provider. This may be one that operates nationally, or has a certain volume of schemes, or has a large concentration in a certain geographic area. The concern is clearly the potential scale of impact that could occur if an organisation were to fail. EAC data would identify who may be considered large-scale providers, but no one organisation is monitoring the health and viability of these businesses.

6 Market oversight

There is concern about the potential for a ‘Southern Cross’ to happen in this market, therefore what mechanisms are in place to regulate this market, to identify risk, potential market failure and ultimately safeguard the interests of residents and service viability? Should market failure occur, who is there to pick up the pieces? What might market failure look like and what may be the potential causes? What is the role of local commissioners in understanding and preventing failure in their local markets?

This is a different market from that of registered care homes and different approaches to risk management may therefore be required. However, what lessons may we draw from Southern Cross? Market oversight or regulation is carried out by a number of bodies, which have different purposes and focus on different aspects of the service. Are there sufficient safeguards for the market that can address business failure, deal with the affects of failure or support and encourage the market? No one was made homeless by the closure of Southern Cross and other companies took on services and homes, so are existing mechanisms sufficient? Or do we need more regulation? If so what and by whom? The social care White Paper seeks to answer this and states that consultation will follow later in 2012.

Investment to expand this sector will need to come largely from private finance as there is unlikely to be sufficient public funding, therefore the risks may rise, but as long as those are managed well and businesses flourish then we will see a strong and successful market.

6a Market oversight - Local market development

As described in the introduction, the government seeks to establish a thriving and diverse social care market. For this to happen, local authorities need to be engaged in stimulating and shaping the market locally. They need to understand housing with care and support markets in order to develop a Market Position Statement for housing for older people, which should be an introduction for deeper discussions within the public sector, across planning, housing, health, social care and with providers. As part of the government’s social care White Paper, it is offering to provide support to every local authority to create a Market Position Statement or develop their existing one.

A Market Position Statement should include the whole housing and care market, across public and private provisions and set out an indication of the future local authority engagement with that market. This need not be a lengthy document, but it should be clear, analytical and informed by a strong evidence base.

Some local authorities have ensured that specialist housing with care and support is not seen in isolation and has embedded needs and priorities within Local Investment Plans. There will be opportunities to tie the development of new specialist housing with care and support to regeneration plans and such schemes can be a catalyst to get sites moving. It is also important in many areas to recognise that cross subsidy from wider programmes of development may be required to ensure the capital funding for new specialist schemes can be generated.

6b Market oversight - Service commissioning

Local authorities are major commissioners of care and support services and therefore have an important role in local markets. Local government democratic accountability will mean that commissioning of adult social care services and Supporting People services will be carried out differently and with different levels of investment in different localities.

Local authority commissioners of care and support services will monitor delivery of those services against contract terms and industry quality standards. With a shift away from large block contracts to personal budgets, local authorities’ role will shift to one that will increasingly be about facilitating, analysing and overseeing local markets.

Different authorities may take different approaches to the commissioning of specialist housing, which reflect their understanding of housing and what this type of housing with care and support provision can offer. Some authorities see it as primarily a type of care provision and are closing all registered care home provision and replacing them with schemes such as extra care. Others see this type of provision as a housing (with care) product and place it in a spectrum of provision, maintaining care home provision for those for whom independent living is no longer suitable, even with on-site care services.

The concept of extra care housing is for there to be a range of levels of need and ages within a scheme ensuring the ethos of independent living is maintained with residents able to participate and utilise the (often expensive) communal facilities. Where schemes have a mixture of units for sale and for rent, those purchasing into a scheme are also buying a lifestyle and the activities that come with the scheme.

The ethos of a scheme can be undermined if the local authority only refers older people with the very highest levels of need and who are unable to participate and utilise the facilities. Prospective purchasers (or those already purchased) will not find this an attractive independent living scheme if it feels like a care home, with predominantly high care residents.

Referring authorities need to understand that the ethos of a mixed level of need is key to financial viability of a scheme. The rental units may only exist due to cross subsidy from units for sale; if commissioning referral practices impact on sales it will undermine the viability of the whole scheme.

With the introduction of and increased focus on, personalisation, there has been a shift away from block contracts. In specialist housing this may mean that more than one care provider may be on site and that there is less overall flexibility in service delivery as care is specified to an individual rather than across the scheme. This can undermine the ethos and successful management of such a scheme.

The changing operating context and new operating frameworks for health, social care and public health, mean that although there is a great deal of change, there are also opportunities to deliver a wide range of existing and new supported housing services that deliver expected outcomes and can be commissioned in partnership, integrating funding and services.

6c Market oversight - regulatory frameworks

The government's social care White Paper has set out the roles and responsibilities of those involved in commissioning and provision of care and support at all levels. This will apply to the care element in specialist housing with care, but not to the overall business of running these schemes. A key difference between care homes and specialist housing with care and support such as extra care, is that the latter is first and foremost housing, rather than a care setting. Importantly, this will mean that other statutory regulators will also have a role, in particular the social housing regulator the Homes and Communities Agency.

The White Paper makes clear that the government's goal will be seeking to ensure continuity of service for individuals. It will not support failing businesses at taxpayer's expense, stating that the company, its directors and investors are responsible for the operation of the company and the consequences of their decisions.

Social housing regulator

If specialist housing is owned or managed by a social housing provider then that organisation will have to be registered with the social housing regulator. Registration is at an organisational, not a scheme level.

The Homes and Communities Agency (HCA) took on the statutory function of Social Housing Regulator from the Tenant Services Authority on 1 April 2012, and oversees regulation of the social housing sector (both housing associations and local authorities) in England. The HCA requires all registered providers to adhere to a set of economic and consumer standards set out in...
Managing risk: lessons from Southern Cross for the specialist housing with care and support market

its Regulatory Framework from April 2012. Economic standards cover the key areas of: Governance and Financial Viability; Value for Money; and Rent levels. Consumer standards focus on four areas: Tenant involvement and empowerment; Home; Tenancy; Neighbourhood and Community.

When considering the healthy future of the specialist housing market, the objectives set out in the Regulator’s methodology support this, although at a global level of social housing provision, rather than specialist housing products. The regulator aims to protect public investment in social housing and maintain confidence of private investors to invest in the sector. The success of this can be evidenced by its oversight of the social housing sector’s private sector financial loan facilities (£64bn since 1988), which have seen no defaults. The most recent Quarterly Survey (July 2012) of housing providers reports that the social housing sector is managing its key financial risks, and consequently the sector is able to raise new debt through both the capital markets and banks.

Other objectives of the Regulator include to: ensure that social housing continues to be available for current and future tenants; enable landlords to provide new social housing, assuming other conditions are in place; ensure providers are open and transparent; and to protect the reputation of the sector as a whole.

Depending upon their legal constitution, housing associations may also be regulated by other bodies such as the Charities Commission. It is important to note that the HCA regulatory role focuses on oversight of the overall business of the organisation and does not focus on individual schemes or service strands in detail.

The regulator expects providers to identify any potential problems and to rectify them, and if the regulator considers the provider has the capacity to resolve problems, will work with them to do so. However, where self-directed improvement has failed or that the regulator considers that the provider is unwilling, lacks capacity or believes the intended remedial action is insufficient it can utilise its regulatory, enforcement or general powers.

HCA investment requirements

The HCA is also the main investor of public funds in social and affordable housing including specialist housing with care and support. Agreement to provide funding by the HCA is conditional upon agreement to meet certain standards regarding the design and construction of buildings, levels of rent to be charged etc.

Non-social housing regulation

Private (non-social) housing providers are not regulated by the HCA, their constitution or type of business will determine who may take an interest in their business. For example, the provider may be a registered charity, regulated by the Charities Commission, or they may be a limited company overseen by Companies House.

As will be the case with social housing they may work with a range of bodies who oversee different aspects of their service such as: local social services teams; Safeguarding Vulnerable Adults teams; Environmental Health Officers; Fire Safety Inspectors etc.

Care services regulation

For housing with care and support schemes it will only be the care service that needs to be registered with the regulator, not the scheme itself, as would be the case with a registered care or nursing home. This provision is foremost housing and individual residents’ homes. The social care White Paper has proposed the development of a national directory of care providers and profile of care provider quality.

The Care Quality Commission (CQC) is the independent regulator of all health and social care services in England. Health and social care providers must be registered with the CQC if they carry out one of a number of prescribed regulated activities including:

- Personal care
- Accommodation for people who require nursing or personal care
- Accommodation for people who require treatment for substance misuse
- Accommodation and nursing or personal care in the further education sector
- Assessment or treatment for persons detained under the Mental Health Act 1983

It is the provision of personal care that is of direct relevance to specialist housing with care and support including extra care housing, as it is this activity that is registered. The scheme or building itself is not registered, but may be referred to as the ‘location’ where the personal care service provider delivers its service. A location is “a place in which people live as their main or sole place of residence … and they receive care or treatment there”.

In order to have earlier information regarding possible service failures, the CQC is developing a range of mechanisms to gain better intelligence and strengthen early-warning systems. This will include information from local Healthwatch organisations.

The Government has proposed in the White Paper to review the regulations that underpin the registration system operated by the CQC and will consider whether the system is addressing the appropriate level of risk. It will also consider whether it has an appropriate balance between providing assurance for service users against imposing burdens on providers of social care services. They propose to consult on any proposed change later in 2012.

22 - www.homesandcommunities.co.uk/sites/default/files/our-work/regulatory_framework_2012.pdf
23 - www.homesandcommunities.co.uk/sites/default/files/our-work/regulating_the_standards_-_may_2012.pdf
24 - www.homesandcommunities.co.uk/sites/default/files/our-work/quarterly_survey_11-12_quarter_4.pdf
25 - www.cqc.org.uk/organisations-we-regulate/registering-first-time/regulated-activities
Managing market failure - potential causes and impact of provider failure

If each regulator or market observer has a focus on a particular aspect of specialist housing, where is the oversight of the overall market? Who sees the bigger picture and oversees solutions should anything go wrong? This may well depend upon what exactly has gone wrong and the scale of the issue and potential impact. The social care White Paper suggests that local authorities have held, and should continue to hold, the lead in resolving service or business failure.

The reasons for the failure of Southern Cross have been publicised and include a poor business model, leading to business failure at a level not seen before. ADASS and its regional structure played a crucial role at a national level in providing coordination between national and local government, leading the change process and providing clear public messages about safeguarding interests of the residents.

Following Southern Cross, the question is posed, could this happen in the specialist housing with care market, and the answer is inevitably yes. But what might provider failure mean in this market, as there may be not just one organisation, but a number who play a role in owning and providing services in a housing with care scheme. From the roles outlined in this paper, we could potentially see the failure of one organisation that provides all functions in a scheme, or it could be the failure of just one aspect:

Failure of landlord and/or housing manager

If the housing manager fails, it may be that the owning organisation or landlord is able to transfer responsibility for this aspect of the service to another provider. However, if it is the landlord business which fails, different responses may be required depending upon whether the landlord is private, or regulated by the HCA. Residents may own their home (leasehold) or rent via a tenancy agreement and these legal contracts will have clauses regarding the rights of residents.

Where a landlord is regulated by the HCA, the regulator would have a role in working with the governing board of the association to address and seek to put right the business failure. However, if this was not possible it would work with the board to protect the interests of the residents and the (publicly invested) assets of the organisation; this may involve the transfer of the stock to another landlord or association who would take on responsibility for the schemes and the residents.

It may be that a landlord decides to withdraw from this market and, whilst not a business failure, would precipitate the possible sale or transfer of the building and services to another provider, which each of the regulators and commissioning organisations would have an interest in safeguarding the interests of the residents and the services to them.

Failure of care and/or support provider

There could be a single care provider at a scheme or there may be more than one working within a scheme; for example, one may be contracted to provide a universal service including night cover (ensuring scheme viability), with additional care providers purchased by residents.

Should the care or support provider fail, then it may be possible to transfer the contract(s) to another provider organisation. This would clearly require speedy action and careful management to ensure continuity of service and care for residents. However, this is unlikely to precipitate the closure of the overall scheme as residents retain their own homes and if they have personal budgets may be able to purchase care from another provider.

Total business failure

The most significant business failure, and the most complex to resolve, would be where all services and roles are carried out by a single organisation. As described above, solutions may vary depending upon whether the landlord is regulated by the HCA, who may have a key role in negotiating solutions and supporting the organisation to work with its stakeholders to identify solutions and transfer stock and contracts to new organisations.

The scale and scope of the business would be a key determinant in the potential impact of failure. Some providers work nationally and have many schemes and a large-scale response as seen with Southern Cross may be required. However, others may be small and local in scale but may nevertheless have a very serious impact on the local market. For example, if all care homes have been replaced with extra care housing provided by one or two organisations, then a failure of one of them would have a serious impact and may require new providers to be brought into the local market to prevent the creation of a local monopoly.

What could precipitate failure?

Failure of a landlord may be driven by causes connected to specialist housing with care, or if a diverse business, by other aspects of its operation. Whether the failure of the landlord relates to or is caused by the specialist housing or not, the impact and solutions may be similar. Causes of failure may be due to a number of issues and possibly a combination of factors. However, local authorities should be aware that their commissioning actions may precipitate failure and be prepared to tackle any ensuing problems regarding services.

As discussed, increasing reliance on private equity to develop specialist housing schemes means that revenue streams are crucial in sustaining that debt. Therefore, any action that may impact on revenue streams can have a critical impact on the viability of a scheme and potentially the overall business. Thus, any reductions in care and support contract values should be consulted upon and discussed with the partners’ organisation to identify any potential impact on viability.
Providers require a minimal level of income to maintain the viability of a scheme; for example, maintaining sufficient income to pay for night cover for all residents. However, some commissioners are insisting on removing all block contracts and moving wholesale to personalised budgets. This may work fine when people live in their own street properties but in a specialist housing scheme, certain minimum levels of service need to be funded to ensure the safety and security of residents and scheme viability, especially out-of-hours cover. Commissioners and providers need to work together to find sustainable ways to personalise services as much as possible without putting the scheme viability in jeopardy.

Low occupancy levels will also reduce revenue income and may be due to a number of factors. Poor quality services or building condition may reduce local authority referrals, or individual renters or purchasers choosing that scheme. Local commissioners need to understand the dynamics of their local market and that their (understandably) reduced referrals may precipitate scheme or business failure. It may be that they should be discussing with their providers the reasons for reduced referrals and what investment might be made to improve the quality of service or condition of the property.

With pressures on local authority social care and health budgets there can be an understandable tendency towards only commissioning services or funding service users that meet higher need levels. However, this ignores a key aspect of extra care, which is of a balanced mix of residents and includes the preventative role that this appropriate housing provides in reducing future needs and expenditure.

Low occupancy may also be due to low take up of units for sale. Commissioners may not consider this anything to do with their role or remit. However, some providers report difficulty in selling units where the local authority has only referred clients with very high levels of need (not a balance of needs). Unsold units mean reduced revenue and losses for the scheme, which is not sustainable. Whilst it may be understandable why the authority should make these referrals, it should also be aware that it may ultimately precipitate the closure of the very scheme it crucially needs. It therefore needs to work with partners to ensure the long-term sustainability of schemes.

It may be possible to convert unsold sales units to be for rent instead, which could be funded by locally identified solutions. However, if no public funding is available it would result in higher borrowing costs increasing risk and dependency on revenue income, which the landlord/owner may not be willing to take on.

8 Challenges, opportunities and action

If the aim is to promote, develop and maintain a thriving and diverse market in housing with care and support, particularly extra care housing, then this requires an honest appraisal and understanding of the challenges and risks to providers and commissioners in planning and managing within this market.

The social care White Paper recognises the effective local authority management of past provider failures and proposes that this lead role should continue. The government will in future expect all local authorities to monitor their local providers and to have clear arrangements in place to manage all cases of provider failure.

Knowledge development opportunities

The following points suggest areas of knowledge development that may assist local authorities in understanding the dynamics of their local specialist housing with care and support markets. Local authorities should:

- Understand that residents of specialist housing with care and support schemes have legal rights (and responsibilities) that differ from and are higher than those of living in residential care homes.
- Recognise that specialist housing with care and support and extra care housing are terms that describe a very wide range of scheme sizes, types and services.
- Recognise the importance of understanding the local housing and care market.
- Collect quality intelligence and data regarding the scope and scale of the local market, the providers and their products and utilise this in informing strategic planning. The government expects that intelligence will build up from a local level to regional and the national level.
- Understand the interdependence of capital and revenue in specialist housing and the potential impact of commissioning decisions.
- Understand the business risks for developing and managing organisations.
- Take account of national reforms to procurement that urge those purchasing care and support to seek value for money over the long term and consider the sustainability of supply chains.
- Recognise the impact of commissioning decisions including personalising services on scheme viability and organisations ability or willingness to remain within the market.
- Understand the operational functions and their interdependence in managing specialised housing
schemes. And that changes to any of these roles and levels of services may have a knock on effect on others.

• Support the linking of housing with health and social care, for example as part of joint strategic needs assessments and inclusion on health and wellbeing boards.

• Be prepared to manage the impact of business failure and safeguarding residents.

For further information on taking these forward, read the aforementioned Housing LIN / ADASS SHOP Resource Pack.

Opportunities to learn from innovation

There is no single model of specialist housing with care and support and lessons continue to be learnt about how to best design and manage these schemes. Local authorities should ensure that before commissioning new schemes, they appraise themselves of new developments and ways of meeting intended outcomes in more efficient and cost effective buildings and service designs.

Innovation may be in the flexible design of buildings which allow communal facilities to be built upon the ‘footprint’ of flats, so that should commissioning priorities and needs of residents change in the future, these areas can be converted to flats and not left empty.

Innovation may be in terms of the siting of new schemes and the wider role they may play in communities. If day services are reducing due to service funding being restricted to critical and substantial, it may be that the facilities could be utilised by the wider community and schemes functioning as community hubs and bases for outreach. Examples of innovative approaches can be viewed on the Housing LIN’s online directory of Department of Health Extra Care Housing Schemes.26

Delivering personalisation

A number of housing associations are testing how personalisation can be delivered in the context of specialist housing with care and support. Schemes require a certain amount of stable funding to meet core costs, such as twenty-four hour care provision and supervision. These models include residents all purchasing a core service offer, but then having an additional flexible ‘menu’ of options available for purchase from a range of providers. Sometimes called a ‘core and flexi’ model; local authorities are commissioning organisations to deliver more individualised services within block contracts. The Housing LIN has a range of briefings and case studies on personalisation at work in a variety of housing with care settings on its website.

Involving communities and residents

Involving local older people and residents is key to ensuring that strategies and services meet local needs. Research27 by the London School of Economics and Political Science for the Joseph Rowntree Foundation recommends that there should be continuous dialogue, rather than one-off exercises.

For housing organisations regulated by the HCA, the Regulatory Framework Consumer Standards28 for landlords describes expected outcomes regarding Tenant Involvement and Empowerment. This includes customer service and choice, and also giving residents opportunities to be involved in the formulation of policies and strategies, and how services are delivered.

The Housing LIN website29 has further material of use to commissioners wishing to increase involvement of older people in service development and management.

Integrated service commissioning

Specialist housing with care and support is an ideal solution to bring together and integrate services, an excellent base in which to deliver better outcomes and respond to changing needs. More responsive commissioning will help integrate services and to achieve this we need to encourage housing representation on the Health and Wellbeing Boards and ensure that housing contributes to Joint Strategic Needs Assessments (JSNAs). The Housing LIN has a helpful information pack30, ‘Getting to grips with integration: making housing count’ which explores the link with Health and Wellbeing Boards and JSNAs in greater detail.

New partnership opportunities to increase capacity

With the changes to the operating context and reductions in capital and revenue funding outlined, it is timely to explore new partnerships and ways of working together to deliver new specialist housing with care and support. Housing LIN Viewpoint 26, A New Lease of Life: Partnership Opportunities for Increasing Capacity in Extra Care Housing31 suggests ways forward.

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26 - www.housinglin.org.uk/AboutHousingLIN/DHEXtraCareHousingFund
27 - www.housinglin.org.uk/Topics/browse/HousingOlderPeople/UserInvolvement/?parent=3667&child=8407
30 - www.housinglin.org.uk/Topics/type/resource/?cid=8169
Use of housing equity in funding housing and care

With increasing numbers of older people requiring social care and ever tightening budget restraint, other sources of funding will inevitably need to be sought. The proposals made by Dilnot in his report explore how we can pay for social care the in future. It makes an important link connecting housing equity and payment of care costs.

There are opportunities for commissioners and provider organisations to work together to develop schemes where older people are able to downsize and utilise their housing equity to pay for both their housing and future care needs. However, the housing product needs to be right and a careful balance needs to be struck in ensuring that the scheme is an enticing place to buy into and not seen as a place of last resort or somewhere only catering for the most frail or infirm. These themes have been explored in the recent Shelter and the New Policy Institute report ‘Market Assessment of Housing Options for Older People’. For more on downsizing and marketing extra care housing, visit the Housing LIN website.

Cost Benefit analysis

Whilst expensive when compared to capital costs for developing general needs housing, there are benefits to local and national budgets as these schemes offer cost effective alternative accommodation to people who may otherwise be housed in more expensive residential care homes, and reduce otherwise costly hospital admissions or lengthy stays.

Frontier Economics’ analysis of capital investment in specialist housing with care and support concluded that investment by the Homes and Communities Agency in specialist housing for nine client groups delivers an annual net benefit to the exchequer of £639m; including £219m a year from older people’s housing, £199m a year from specialist housing for adults with learning disabilities and £187m a year from specialist housing for people with mental health problems.33

The National Housing Federation and the Department of Health’s Care Services Efficiency Delivery team34 demonstrate that investment in a range of preventative support and housing based services leads to better outcomes for the users of the service, their families and brings savings to the tax payer. The Cap Gemini study of the benefits of the Supporting People programme estimated that a £1.6bn annual investment in housing-related support services generated annual cost savings of £3.41bn to the public purse, including to health and social care.

Recent research reports, focussing on extra care housing, have shown the value that this specialist housing with care and support delivers. ILC-UK’s research, ‘Establishing the Extra in Extra Care’35, utilised longitudinal data from three providers and found that extra care could play a major part in delivering better health outcomes and reducing the long term care costs facing older people.

Frontier Economics – Financial Benefits of Investing in Specialist Housing for Vulnerable and Older People, Homes and Communities Agency (2010)
www.homesandcommunities.co.uk/sites/default/files/financial_benefits_of_investing_in_specialist_housing.pdf

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36 - www.housinglin.org.uk/Topics/browse/HousingExtraCare/Evaluation/?parent=3664&child=8398
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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 on-line resources on extra care housing and shared learning and service improvement networking activities, 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 there is a subject that you feel should be addressed, please contact us.

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