



Funding Extra Care Housing TECHNICAL BRIEF

Part Three:

Revenue funding

Having considered capital funding in Part Two, Part Three considers the revenue funding of the services provided in Extra Care Housing. Whether from the perspective of a commissioner or a provider, this is of fundamental importance in relation to scheme viability.

The services under consideration in the Technical Brief can be broadly broken down into the following categories:

- Housing Management and other accommodation-related services – referred to in **A) Housing hosts recovery**, following.
- Housing Related Support services – referred to in **B) Care and support costs recovery** and **D) Crossover issues – care/support/housing**, following.
- Care services- referred to in **B) Care and support costs recovery**, following.

Other services also considered include:

- Assistive Technology and alarm services – mentioned in section on Service Charges in **A) Housing costs recovery**, following.
- Services aimed at promoting wellbeing including activities facilitation – see **C) Funding quality of life and wellbeing services**.

Fundamental principles

An underlying principle applying to the revenue funding of Extra Care Housing is that it is housing and not a 'care home'. The same rules generally apply to residents of Extra Care Housing as apply to people living in other forms of housing of the same tenure type.

KEY POINTS

Revenue Funding

Extra Care Housing brings together a number of different funding streams in order to provide a range of services which, despite their disparate funding sources, need to be well coordinated and cohesive at the point of delivery.

Providers (whether of housing or care and support) need to ensure that they achieve full cost recovery in operating Extra Care Housing. This requires a robust approach to which cost components 'fit' within which income streams, while acknowledging that there are a number of variations and complexities depending upon the model of Extra Care Housing being described, and the type of housing tenure concerned.

Residents are individually liable to pick up the majority * of a scheme's housing operating costs via rent and /or service charges. This requires that they can in turn find sources of financial support and assistance via the benefits system where individually eligible – in order to ensure the affordability of Extra Care Housing and to enable it to be accessed by as many people as possible.

** However some operating costs might be the liability of 3rd parties, eg where there is an external use of a scheme's facilities – for example by a commercial/retail organisation; or by a NHS service.*

Residents are also liable to meet the costs of care and support, either from their own resources, via the benefits system, and/or with financial support from the LA ASCR via the Fairer Charging system for assessed care provision.

Welfare benefits

Residents in Extra Care Housing are responsible for meeting housing costs which providers collect via rents (tenants) and service charges (all tenures). Depending on individual circumstances, residents may then receive various means tested benefits which can assist them to meet (eligible) housing costs.

KEY POINTS

- Maximising Extra Care residents' disposable incomes will assist them to meet both their housing costs, as well as the cost of meeting their care and support needs. The information in this section focuses on how the Welfare Benefits system contributes to the affordability of Extra Care Housing.
- Housing providers (both RPs and private sector providers) will want to ensure that as many potential residents as possible can meet their housing costs – in order to maximise demand, and to minimise the risk of people being unable to meet the costs of their tenancies/leases. While access to benefits has 'traditionally' been a key concern mainly in social rent Extra Care Housing, these considerations are relevant for any provider of Extra Care Housing aiming to include people with lower/modest incomes and savings within their 'target' market.
- LA ASCRs will want to ensure that Extra Care Housing residents:
 - can afford to fund their eligible care and support needs from their own resources, supported as far as possible by benefits, in order to contain the liability for the LA to cover these costs via the Fairer Charging system
 - have as many financial resources as possible from which to fund other care and support needs that are not eligible for LA ASCR assistance but which may play an important preventive role in delaying/reducing peoples' eventual reliance on more costly forms of social care and health care.
- Local Housing Authorities:
 - may in some cases still be housing providers in their own right so will have the concerns mentioned above
 - as housing enablers, will share the commitment to maximise access to affordable Extra Care Housing for as many people as possible in their area
 - as the LA also holding Housing Benefits responsibility, pending Welfare Reform Act changes, will wish to ensure that eligible Extra Care Housing costs are met in accordance with Housing Benefit regulations.

- It is also in the interest of Care Providers that residents' disposable incomes are maximised, since residents will be attempting to pay directly for those care and support services which are not eligible to be funded by LA ASCRs (across all sectors of Extra Care Housing).

While this Technical Brief is expressly not a guide to benefits (it does not, for example, deal with qualifying conditions such as means testing rules or capital limits etc., and only makes selective references to current benefit rates), we begin by broadly outlining the benefits applicable to funding Extra Care Housing. We are revising this Technical Brief at a time of major changes in the benefit system as a result of the Welfare Reform Act 2012 (WRA). We also refer to the relevant benefits when describing potential funding sources for each service in turn, in (A) Housing costs recovery.

BENEFIT RATES

Since benefit rates become quickly out of date we do not include them here. Rates are updated annually and are available from the Department of Work and Pensions (DWP) website and other sources.

Those for 2012/2103 are available at www.dwp.gov.uk/docs/benefitrates2012.pdf

IMPACT OF THE WELFARE REFORM ACT 2012 (WRA)

In describing specific benefits that are relevant in Extra Care Housing, below, we summarise the current position – but where the WRA has an impact on that specific benefit, we add comments in a separate box.

The following more general aspects of the WRA are also expected to have a wider impact on older people, and/or on both sheltered and Extra Care Housing, and are referred to at the relevant point in this Technical Brief.

- New processes/systems for handling of benefit claims, queries etc.
- Future arrangements for funding supported housing and 'Exempt Accommodation'.
- Linkage between rents and Local Housing Allowances for private rented Extra Care Housing.
- Treatment of Service Charges.
- Council Tax Benefit.
- Disability Living Allowance.

SPECIFIC BENEFITS RELEVANT FOR EXTRA CARE HOUSING RESIDENTS

Housing Benefit

Housing Benefit (HB) is administered by Local Authorities with housing responsibilities (LHAs); is funded by central government (DWP), and meets the eligible housing costs of people in rented housing. Along with much other supported and sheltered housing in the social sector, Extra Care Housing will usually be classed as 'Exempt Accommodation' (covered more fully below) which in brief means that rents and service charges – providing they are 'reasonable' - will be covered by HB even though these charges may be significantly higher than in general needs housing, because of additional services and facilities.

HB can be claimed by tenants in rented Extra Care Housing – and by leaseholders in shared ownership Extra Care housing in respect of service charges (even though there is nil net rent payable under the OPSO model as described in paragraph 'Choice of tenures', previously).

However, those parts of the service charge which are never eligible for HB (listed next) will not be covered.

WRA issues for Housing Benefit and older people

- For older people generally:
 - the Welfare Reform Act abolishes Housing Benefit- older people in mainstream rented (social or private sector) non specialist housing who are eligible for assistance will instead receive help with rent via a new element of Pension Credit, to be called 'housing credit' (from October 2014)
 - new claimants will claim Pension Credit with housing credit from October 2014
 - existing HB customers over Pension Credit age (with or without Pension Credit) will be transferred to modified Pension Credit (including Housing Credit) between October 2014 and October 2017.
- However, following consultation, the Government has indicated that costs for supported housing (including Extra Care Housing) which is classed as Exempt Accommodation will not be paid for under these arrangements pending development of new systems, and that current arrangement will remain place – see 'Exempt Accommodation' in D) Crossover issues – housing/ care/support following.

Pension Credit

Pension Credit is a benefit designed to ensure that men and women over the qualifying age have a guaranteed level of income through the Pension Credit Guarantee Credit element. The qualifying age for Pension Credit Guarantee Credit is the same as the minimum State Pension age for women. People over the age of 65 may also be awarded the Savings Credit element of Pension Credit, which is extra money for those who have made some modest provision for their retirement.

Pension Credit can be claimed for people in Extra Care Housing; for tenants in rented schemes, receiving Guarantee Credit is an automatic passport to receiving full Housing Benefit (while HB remains in existence). In addition, for leaseholders, Pension Credit can meet some of their housing costs, (as they are not covered by Housing Benefit) – if a person owns their own home and has a mortgage, home loan, or other housing-related charges to pay, their ‘minimum guarantee’ for Pension Credit purposes may include extra amounts to cover some housing costs.

Pension Credit and Service charges

A person’s appropriate minimum guarantee for Pension Credit purposes can include help towards some charges, where they are deemed ‘reasonable’.

The following services are eligible:

- services for the provision of adequate accommodation including some warden and caretaker services, gardens, lifts, entry phones, portering, rubbish removal, TV and radio relay charges
- laundry facilities like a laundry room in a sheltered housing scheme but not personal laundry services
- cleaning of communal areas and windows
- minor repairs and maintenance
- house insurance if it has to be paid under the terms of the lease.

However, it should be noted that service charges for community/emergency alarm systems, catering, and personal care and support services are not covered.

Although the definitions of (in)eligible service charge items should provide consistent treatment across claimants, certain private providers of leasehold Extra Care Housing, which operate across many areas of England, report great variation in the level of service charges that local DWP offices will regard as eligible to be covered by Pension Credit.

Finally, ‘ground rent’ is also an eligible cost for Pension Credit purposes and will be included in a person’s ‘minimum guarantee’.

Pension Credit – Mortgages and home loans

Most people will purchase in leasehold Extra Care Housing using their own resources usually from the sale of their previous home. However, Pension Credit allows help towards interest payments on mortgages up to £100,000 (but not capital repayments). Pension Credit will

not cover insurance policies on a mortgage, or any arrears.

There are many issues, however, with using Pension Credit Support for Mortgage Interest, since in practice it has become very difficult to find mortgage lenders prepared to offer interest only mortgages to older or disabled people who wish to use benefits to repay the loan.

WRA issues for Pension Credit

General points

- Universal Credit (UC) and Pension credit are planned to operate 'on-line'; which will be challenging for many older people, who – as a group – tend to be digitally excluded; this is likely to apply even more to extra care residents, who are generally older and frailer.
- To avoid risks to tenancies and to safeguard their income, Providers may need to offer more benefits advice and support during this transition period.
- Age changes – at present where a couple includes one partner over Pension Credit age and the other under Pension Credit age, the older partner can claim Pension Credit for both. In future the younger partner will have to claim Universal Credit for both, which will be paid at a lower rate – and Pension Credit will only come into play once the younger partner reaches pension age.
- Couples already in receipt of Pension Credit when Universal Credit is introduced will be able to stay on Pension Credit.

Leaseholders

- In Extra Care Housing, if they qualify for Pension Credit, leaseholders will continue to have 'eligible' housing costs included in their minimum guarantee as explained above.
- In December 2012, the final UC Regulations confirmed the range of eligible service charges (see (A) Housing costs recovery, section on Service charges, for more detail). These changes will not apply in Exempt Accommodation, but may impact on non Exempt Accommodation Extra Care Housing, eg in the private sector. Pension Credit rules on service charges have in the past largely mirrored those applying under HB in the rented sector. Some commentators expect that this will continue to be the case with the UC-defined eligible categories of service charges, but there is currently (January 2013) no certainty about this.

Attendance Allowance

While not linked to meeting housing costs, many residents in Extra Care Housing will qualify for Attendance Allowance. Attendance Allowance is a non-means tested benefit for people who are 65 years old or over who need help with personal care, or need supervision by day or someone to watch over them by night, because of 'physical or mental disability'. The disability needs to be severe enough for the person to require help caring for him/herself or supervision to do so, or for the claimant's own or someone else's safety. The allowance is based on the help needed not the help actually received, and is paid at 2 rates depending on the extent of the individual's needs.

Many older people living in extra care schemes in both the social and private sector may be eligible for Attendance Allowance even if their needs do not meet social care eligibility (sometimes known as FACS) thresholds. Their carers may be eligible for a Carers' Allowance.

Attendance Allowance is normally ignored as income for working out income-related benefits and other entitlements, and may be a passport to an increase in other

benefits. Unlike a personal budget, if someone is entitled to the benefit, there are no rules specifying how it should be spent, but it could be used, along with any pension credit disability premiums, on purchasing care or support.

There are no current WRA implications for Attendance Allowance.

Disability Living Allowance

Disability Living Allowance (DLA) is for people who, because of their physical or mental disability:

- need help with personal care, or need supervision by day, or need someone to watch over them at night; or
- are unable to walk, have great difficulty walking, or need someone with them when walking in unfamiliar places outdoors; or
- need help with both of these.

DLA applies to people who make a claim before the age of 65. DLA is not taxable or means tested.

WRA implications for DLA

- There are major changes for DLA – in summary DLA will be replaced by Personal Independence Payment (PIP) from April 2013 for people aged 16 to 64.
- Between 2013 and 2016, everyone aged 16 to 64 receiving DLA will be reassessed for PIP instead of DLA. The details of this process fall outside the remit of this

Technical Brief, but –although PIP eligibility criteria will mirror DLA in many ways- assessment will be more stringent. There will for example be no equivalent in PIP for the lowest rate of DLA care – if existing claimants cannot reach the new standard rate of care for PIP, they will lose the benefit entirely.

- There are currently no proposals to replace DLA with PIP for people over the age of 65 who are already continuing to receive DLA. People will not be able to claim PIP after the age of 65 (or pension age if that is higher) but they will be able to stay on PIP after that age if they have claimed it beforehand.
- People on DLA/PIP will not be subject to the overall benefit cap being introduced under the WRA (see section on Other Impacts of the Welfare Reform Act 2012, following).

Council Tax Benefit

Council Tax Benefit (CTB) is a means tested benefit to help people on a low income who have to pay Council Tax; it applies to people living in all forms

of tenure. It is not a benefit that is directly related to assisting residents pay their accommodation charges, unlike Pension Credit or HB; but, eg like DLA or AA, it does contribute to people's overall income.

Please note, CTB changes are not part of the WRA, but are generally seen as linked to the overall welfare reform agenda.

- CTB will be replaced with localised support in 2013-14. Instead of a benefit based on national rules, local authorities in England will receive funding to provide support, but expenditure will be reduced by 10%. Local authorities however have to develop schemes within broad parameters set out by Government.
- Key to the remaining national framework is protection for current and future pensioners, who should receive the same levels of support under the new scheme as at present. People in other 'vulnerable' groups should also be protected – this will generally include disabled people as well. There is however no certainty, given the wide variations expected between local schemes, that people living in supported housing will automatically be regarded as being 'vulnerable'.
- Support for other people of working age is likely to be reduced significantly as they will bear the brunt of the overall 10% reduction.

Inter-relationships between benefits

There are complex inter-relationships between different benefits which are beyond the scope of this Technical Brief. For example, eligibility for disability

benefits increases the amount payable through means-tested benefits such as Pension Credit (through the additional disability premium). In addition, entitlement to certain benefits may “passport” residents to other benefits or subsidy.

Other Impacts of the Welfare Reform Act 2012 for people in Extra Care Housing.

Changes which do not affect people above pension age, but could affect younger people living in Extra Care Housing include:

- **Direct Payment** of Housing costs to tenants:

Unlike most working-age social housing tenants, for whom direct payments will be the norm, older people and residents of ‘exempt’ supported housing:

- will have their help with housing costs provided outside of UC, and
- will be able to continue to have their Housing Benefit paid direct to their landlord.

The DWP has also accepted that there are some working-age people who will not be capable of managing a monthly payment, and for whom direct payments to the landlord will remain appropriate. There will be a mechanism within UC to facilitate the payment of benefit direct to the landlord once someone is identified as vulnerable. However, ministers have not yet announced what types of tenants will fall into this ‘vulnerable’ category.

- The **overall benefit cap** – for working-age households, total household welfare payments will be limited to £500 per week for couple- and lone parent-households and to £350 per week for single-person households where no children are present. Support for housing costs will have to be met within this cap.

However the Government has announced in the 2012 Autumn Statement that the benefit cap will not apply to anyone living in ‘Exempt Accommodation’

- The **‘bedroom tax’/under occupation penalty** – A working-age household* deemed to be under-occupying their home will lose part of their housing benefit from April 2013. The size criteria in the social rented sector will restrict housing benefit to allow for one bedroom for each person or couple living as part of the household, with certain exceptions around children; a disabled tenant or partner who needs non-resident overnight carer will be allowed an extra room.

Any household deemed to have more bedrooms than they require, will either need to move to smaller accommodation or lose a proportion of their housing benefit.

- * The measure will affect only tenants of working age, defined as those below the Pension Credit age, which is expected to be 61 at the time the criteria come into effect, and to rise in line with the women's state pension age until equalisation with men is achieved in 2018. The Government has introduced proposals to increase the state pension age for everyone to 66 by 2020- it is likely that the Pension Credit age will follow this, leaving more people subject to the size criteria over time
- For couples currently claiming Housing Benefit, both the claimant and their partner need to be under the Pension Credit qualifying age to be treated as working age and subject to the size criteria. However from October 2013, if either member in a couple is under the qualifying age for Pension Credit, then the couple will be treated as being of 'working age', and thus expected to claim Universal Credit, and thereby be subject to the size criteria.

This rule will not affect existing claimants of pension credit; they will be able to continue to receive pension credit and therefore will not be affected by the size criteria.

Again this could impact on single people under pension living in extra care, or couples here one person is under pension age. This impact will gradually increase as the pension age increases over time.



Recovering costs of services in Extra Care Housing

This section is of general relevance to all concerned with the affordability and viability of Extra Care Housing in revenue terms.

A) HOUSING COSTS RECOVERY

KEY POINTS

It is particularly relevant, however, for housing providers (in all sectors), as we address:

- The range of housing costs that arise in Extra Care Housing.
- The way these costs are normally grouped into different income streams (eg 'rent' under various social rent regimes – and service charges).
- How this allocation varies according to the tenure concerned and the type of provider.
- Continuing with the affordability theme mentioned in the last section, how the various cost categories align with the benefits system; which costs are eligible to be met by benefits; and which are not.

Broadly the same kinds of costs arise in both social rented and in private/leasehold Extra Care Housing developments, but will be collected in different ways:

- In rented Extra Care Housing (and in respect of rented units in mixed tenure schemes) housing costs are recovered from tenants via Rents and Service Charges, as in other forms of social housing. The apportionment of costs between rent and service charge varies between providers.
- In leasehold developments (and in respect of leasehold units in mixed tenure schemes), costs which would be collected via rent in rented schemes are instead collected via the service charge.

In private rent developments, the landlord is wholly responsible for meeting the costs that would otherwise be dealt with as

service charges and has to factor these into the rents charged to the tenants.

Residents' eligibility for financial support in meeting charges via the benefit system is – alongside the need for providers to achieve full cost recovery – the other key consideration when setting rents and service charges and in allocating costs to these income streams (see above for benefits information). The majority of housing costs in this section are eligible to be covered by Housing Benefit (for tenants who qualify for HB) or by Pension Credit (in case of leaseholders who qualify for Pension Credit) but there are exceptions- see above, particularly 'Other impacts of the Welfare Reform Act 2012'.

Where non-housing services/activities run by 3rd parties are based in and use scheme

facilities, normal practice is that the RP will charge rent and /or service charge commensurate with the scale of the usage in question, thus protecting scheme residents from bearing costs via the rents/service charges levied on individual properties. The RP may however choose to offer the facilities at a reduced/ peppercorn rate, eg where the external service is seen as adding value for residents by enhancing service

available to them – for example, some RPs will offer the care provider use of rooms and services in the building free of charge or below cost, in return for the care provider’s support with activities or services not funded out of their contract with the LA ASCR.

The following table shows how, typically, costs are collected according to the tenure of Extra Care Housing in question.

Table C: Housing management – cost recovery by tenure

Housing Management Costs in Extra Care Housing	In social rented schemes ⁵⁰	leasehold schemes ⁵¹
Landlord tasks such as administering the tenancies/leases, signing up new tenants/assigning leases, rent and service charge collection and arrears maintenance	Yes, via net rent	Yes-via service, covering service charge collection, management company administration, building management items
Arranging day-to-day repairs	Yes, via net rent	Leaseholder’s own responsibility
Arranging property adaptations	Yes, via net rent	Leaseholder’s own responsibility
Servicing loan costs on the development	Yes, via net rent	n/a ⁵²
Building insurance	Yes via net rent	Via service charge
Contribution to sinking fund/ reserve fund for major repairs	Yes, via net rent	Usually via service charge ⁵³
Scheme manager costs	Via net rent/ service charge/ support charge ⁵⁴	Via service charge

⁵⁰ And for rented units in mixed tenure schemes

⁵¹ And for leasehold units in mixed tenure schemes –with overall caveat that responsibilities are defined in lease terms that will vary provider by provider/scheme by scheme

⁵² Cost of servicing loans covered in income from initial sales

⁵³ Depending upon scheme, provider – and actual lease terms, this contribution may be collected via service charge; or via a charge levied at vacation/re-assignment of lease; or a combination

⁵⁴ Arrangements for allocating scheme manager costs are complex and vary both across tenures and also within schemes of the same tenure – see section on Scheme Managers in (d) Cross over Issues – Housing/Care/Support, below

Lastly, some providers also subsidise operating costs through direct fundraising – this is referred to under Charitable Fundraising in Part Two; Capital Funding, section on Current sources of funding.

Table D, following, shows how other costs are typically collected via the service charge in Extra Care Housing, and the way in which people in different tenures may be treated differently.

RENTS – ‘TARGET’ OR ‘AFFORDABLE’?

Rents in social rented Extra Care Housing developed prior to the introduction of the Homes and Communities Agency (HCA) 2011-15 Affordable Homes Programme (AHP) and funded under previous HCA/ Housing Corporation funding regimes, up to and including the National Affordable Housing Programme 2008 -2011 (and/or by the DH Extra Care Housing Fund 2003- 2010) continue to be set according to the rent restructuring policy for social rented housing set out by the HCA in *The Regulatory Framework For Social Housing In England (April 2012) Annex A: Rent Standard Guidance*,⁵⁵ which continues the rent restructuring policy originally issued by the Housing Corporation in 2001. These rents are often referred to as “target rents”. Under this regime, Extra Care Housing and other specialist housing rents can be uplifted by up to 10% to reflect higher costs.

Schemes funded under the HCA’s current

2011-15 Affordable Homes Programme (AHP) must adopt ‘Affordable Rents’; these are set at up to 80% of gross market rents, reflecting the property size and location (and, critically, are inclusive of service charges). Details are also included in the HCA Guidance referred to above, which consolidates all of the previous guidance issued by the Housing Corporation, adopted by its successor body, the Tenant Services Authority (TSA) -and then by the HCA following the abolition of the TSA. It also includes the requirements of the Rent standard that applies from 1 April 2012.

Although ‘Affordable Rents’ should be based on similar types and models of service provision, this will be difficult in the case of Extra Care Housing and some other forms of supported housing, where private sector comparisons are hard to find – the HCA says that RPs should ask valuers ‘to identify comparables from other areas, and extrapolate their best view of the gross market rent that would be applicable in the location in which the property is situated’ (P. 13 in above-mentioned Rent Guidance Standard).

Because Extra Care Housing rents are relatively high, reflecting the scale of communal space and specialist facilities, the gap between market rent and the Affordable Rent is often considerably less than for other forms of social housing developed under the AHP. Exceptionally, RPs may set rents in new developments at below 80% of market rent but need to give reasons for this

55 www.homesandcommunities.co.uk/sites/default/files/our-work/regulatory_framework_annex_a.pdf

approach, as setting lower rents will mean a higher grant rate is needed.

Furthermore, RPs are also expected to charge start charging Affordable Rents when reletting existing properties.

However, for both target and Affordable rents, the maximum annual rent increase will be Retail Price Index (RPI) + 0.5%. RPI will be taken as at September of the previous year, and lastly; 'affordable Rents' (as well as previous 'target rents') are eligible to be covered by Housing Benefit.

SERVICE CHARGES

The Service Charge is the route through which housing costs are recovered, other than those received via rent (for social tenants). Payment of these charges is a condition of tenancy or lease. Total cost is distributed between all units of accommodation with variation according to the size of the unit. The following table sets out how (according to tenure) the housing costs in Extra Care Housing (other than those shown in the table above) are treated in terms of service charges.

Table D: Collection of costs via service charges

Typical cost category – collected via service charges in Extra Care Housing	Social rented schemes/ units	Leasehold schemes/ units	Notes
SCHEME MANAGER COSTS			
eg Salary incl. on costs/ Office/Postage/phone/ IT/ other sundry costs	Yes – part of overall costs	Yes	See section on Scheme manager posts in (D), Crossover issues – housing/care/support, (below) for discussion on how costs may be apportioned There may be scope for overall cost savings if office accommodation and related costs are shared with the on-site care provider
COMMON PARTS/ COMMUNAL FACILITIES			
eg Utility Costs/Council Tax/ Rates/Internal Cleaning/ Window cleaning/Gardening/ Refuse removal/recycling	yes	yes	

Typical cost category – collected via service charges in Extra Care Housing	Social rented schemes/ units	Leasehold schemes/ units	Notes
COMMUNAL MAINTENANCE			
eg Common Room(s)/Guest Room/Laundry/Treatment/health facilities/Assisted Bathroom/Staffroom/Staff Bedroom	Yes	Yes	
ANNUAL MAINTENANCE/ SERVICE CONTRACTS			
eg Lift/Call system – entryphone /Aerial /Security/ Fire Detection and Fighting / Laundry/ Kitchen/ Heating and Hot water	Yes	Yes	See sections below on Service charges in Leasehold and mixed tenure schemes
REPAIRS			
Individual properties	No (in net rent)	No ⁵⁶	Individual leaseholder responsibility
Communal	No (in net rent)	Yes	
INSURANCE PREMIUMS			
Buildings	No	Yes	Collected via rent in rented scheme/units
Communal furnishings and equip	Yes	Yes	
Lift Insurance	Yes	Yes	
SOCIAL ALARM COSTS			
Monitoring charge	In part	Yes	See Section following on ‘Call systems and telecare monitoring costs’
Dedicated phone line	Yes	Yes	

⁵⁶ However, where communal services enter individual dwellings (eg where there are communal heating/hot water or ventilation systems), providers are likely to treat repairs as communal, and not the leaseholder’s responsibility, in order to ensure a consistent quality of repair, and to maintain the overall safety and reliability of services .

Typical cost category – collected via service charges in Extra Care Housing	Social rented schemes/ units	Leasehold schemes/ units	Notes
CATERING			
Catering costs net of food	Possibly	Possibly	See Section below on ‘Catering costs’
Food costs	Possibly	Possibly	As above
EQUIPMENT RENEWALS/ RESERVE FUND			
eg Alarm system/entry phone/ Communal bathroom/dining room/Kitchen/ Boiler /Cleaning equipment/Common room/ guest room/Corridors/Fire Fighting Renewals/Gardening/ Laundry Renewals/Lift/Refuse/ Staff room and bedroom/ Hairdressing/treatment room/TV Aerial/Staff Office	Yes	Possibly	See section following on ‘Service Charges in Leasehold schemes’
INDIVIDUAL PROPERTY UTILITY COSTS			
Heating /hot water/ Water Costs	Usually	Possibly	In social rent schemes, these services are normally provided communally (though satellite bungalows, eg, will have separate heating systems). Costs usually collected via Service Charge but not HB eligible Most private sector provision has independently metered heating/hot water/ cold water to each unit
Electricity	No	No	Separate metered supplies to dwellings the norm in all tenures

For tenants in Extra Care Housing, many of these services are eligible for funding from Housing Benefit. Those not eligible for benefit include:

- Utility costs – heating (including hot water and water to individual dwellings) – though usually collected via the service charge, these remain the resident’s responsibility as in any other form of housing – (dwellings will also have individually metered electricity supplies/ accounts for which the resident is individually responsible).
- Personal services such as nursing or care – see B) Care and support costs recovery, following.
- Cleaning of individual dwellings.
- Emergency/community alarms – but see section on Call systems and telecare monitoring.
- Window cleaning (except for communal areas, and the outside of individual dwelling windows where no-one in household can undertake this).
- ‘Housing-related support’ – again, see B) Care and support costs recovery, and D) Crossover issues, following.
- A proportion of catering costs – see section on catering costs below.

Service Charges in Leasehold schemes

Service charge setting in retirement leasehold properties, including Extra Care

Housing, is subject to the legal requirements of the Landlord and Tenant Act 1987 and the Commonhold and Leasehold Reform Act 2002, both of which enable leaseholders to challenge landlords if costs are considered to be unreasonable. The latter introduced new requirements for the statutory consultation of leaseholders, including circumstances where the leaseholder must be consulted before the landlord carries out works above a certain value or enters into a long-term agreement for the provision of services.⁵⁷

The more usual arrangement in leasehold schemes is to create Management Companies, (which are owned and controlled by the leaseholders themselves), which then appoint Managing Agents for fixed terms to carry out the day to day management of the property on their behalf.

Providers must also follow the Association of Retirement Housing Managers (ARHM) Code of Practice,⁵⁸ which covers many aspect of leasehold management; in respect of service charges, it includes in detail how providers should for example set ‘reasonable’ charges, carry out effective budgeting, and undertake resident consultation. While the ARHM Code does not apply in the social rented sector, it is often seen as offering good practice more generally – in respect of service charges as well in other aspects of housing management.

Private sector management companies have legal obligations as registered

⁵⁷ www.lease-advice.org/documents/S20_Consultation.pdf

⁵⁸ www.arhm.org/code_of_practice.cfm

limited companies to submit audited annual accounts to Companies House, conduct safety audits, maintain a bank account for the service charges and either undertake the maintenance and repair directly or appoint a Managing Agent to do so on their behalf.

Service charges in mixed tenure schemes

As implied in the above table, service

charges for tenants will differ from the charges for leaseholders living in the same scheme. However RPs will need to ensure that:

- those charges which apply to both groups are apportioned equally
- charges which differ are apportioned equitably, and
- that they are able to demonstrate how the respective charges have been arrived at.

WRA implications for Service Charges

In 2012, the Government consulted on possible changes in how service charges in social housing would be treated for benefit purposes; its initial proposals were that only a very restricted range of charges would in future be eligible. In the event, as part of the final Universal Credit regulations published in December 2012,⁵⁹ (and subject to a further period of consultation taking place in January 2013) a broader range of eligible service charge categories has been adopted.

In addition, linked to the Government's announcement that the funding of housing costs in supported housing will remain outside the framework of UC pending development of a new system, it appears that this revised approach to service charges will not apply in Exempt Accommodation, meaning that the current rules under which service charges are treated for HB purposes, will remain in place at the present time.

The implications of this for how service charges will be treated in future under Pension Credit rules (referred to above) remain unclear.

However, although the UC changes to eligible service charges will not apply to Extra Care Housing providing they are classed as Exempt Accommodation, we summarise the relevant material below. This is because some commentators believe that, even though the rules for Exempt Accommodation remain separate at the present time, LAs that will continue to administer HB for the time being for Exempt Accommodation may in practice start to refer to the UC regulations when deciding

⁵⁹ www.legislation.gov.uk/ukdsi/2013/9780111531938/pdfs/ukdsi_9780111531938_en.pdf (pp 66-68 refer to service charges)

on the eligibility of service charges, and also that these rules may in any event form part of the new funding system which will replace the current treatment of Exempt Accommodation at some point in the future. (Also, it is assumed that Extra Care Housing not classed as Exempt Accommodation will be subject to these rules).

The following is based on *Universal Credit Service Charges – Guidance for landlords* from DWP:⁶⁰

Universal Credit regulations (2013) relating to service charges fall into two distinct segments:

- a legal definition of what is meant by a service charge for the purposes of Universal Credit, and
- broad definitions of the four eligible service charge categories with some additional specific exclusion criteria.

Service charges are:

- payments of, or towards, the costs of or charges for providing services or facilities for use or benefit of persons occupying the accommodation, or
- fairly attributable to the costs of or charges for providing such services or facilities connected with accommodation as are available for the use or benefit of persons occupying accommodation.

Payments are excluded where the services or facilities to which the payments relate are provided for any person occupying:

- a tent
- ‘approved premises’ – accommodation for offenders in the community (formerly known as bail or probation hostels)
- a care home, or
- **exempt accommodation** (our emphasis).

There are Four Conditions for eligible service charges payments.

CONDITION ONE

The right to occupy the accommodation is dependent upon the tenant paying service charges, for example where it forms part of the tenancy agreement.

CONDITION TWO

The service charge wholly falls into one or more of the following categories:

⁶⁰ www.dwp.gov.uk/docs/service-charges-guidance.pdf

- Category A: Maintaining the general standard of the accommodation
- Category B: Areas of communal use
- Category C: Basic communal services
- Category D: Tenant accommodation-specific charges.

CONDITION THREE

The costs or charges are ‘reasonable’ and that they ‘relate to such services as it is reasonable to provide’.

CONDITION FOUR

None of the following applies to the service charge

- public funding (in the form of benefits, grants or other sources) is designed to contribute towards the cost of the service or facility, irrespective of whether the tenant has claimed for the funding
- where the tenant would acquire an asset, or interest in an asset
- any charges for meals, medical services, personal services of any description, and
- charges deemed as ineligible service (see below).

EXHAUSTIVE LIST OF ELIGIBLE SERVICE CHARGES

Category A

- Charges for the external cleaning of windows where the tenant resides in the upper floor of a multi-storey property, and, in the case of shared ownership tenancies only.
- Internal or external maintenance or repair of the property, but only where those payments are separately identifiable as being for that purpose.

Category B

The ongoing maintenance, cleaning and utility costs of:

- communal grounds maintenance (general basic gardening for communal gardens such as lawn mowing, tree management, hedge maintenance, litter removal etc. , lighting and maintenance costs for areas of external access (where the tenant is liable to pay for these)
- tenant parking (this does not extend to the manning of car parks for security purposes)

- communal laundry facilities
- children’s play areas (equipment maintenance, surface maintenance etc.), and
- internal areas of common use outside of the home (hallways, corridors and rooms), including provision of security and fire alarm systems.

Category C

- Charges relating to the maintenance or repair of:
 - communal lifts (specifically excluding individual stair lifts)
 - a communal telephone (but excluding the costs of telephone calls)
 - secure building access (key-cards, keypad door locking mechanism etc), and
 - provision of equipment (such as aerials) to access free-to-air television and radio. Where this equipment includes the ability to extend services to include satellite/cable television or internet connection, any extensions to the service will not be eligible for benefit payment.
- Charges for the provision of:
 - refuse collection, and
 - Closed Circuit Television, where this is provided for the purpose of maintenance of areas of internal or external communal use (eg to prevent vandalism etc).
- Charges for the provision of services, but only the proportion that directly relates to time spent on providing that eligible service.

Category D

- Charges relating to the rental of basic furniture or essential domestic appliances to tenants in the accommodation they occupy, only where the items being rented remain the property of the original owner and do not form part of a purchase or part-ownership agreement.

EXAMPLES OF INELIGIBLE SERVICE CHARGES:

(for illustrative purposes, not exhaustive)

- Living expenses, such as heating, lighting, hot water or meals.
- Personal services, such as a laundry or cleaning service.
- Nursing or personal care services (help with personal hygiene, eating, dressing etc).
- Provision of personal emergency alarms.

- Counselling, medical or support services.
- Any medical expenses (including those relating to the provision of counselling).
- Transport.
- Installation, maintenance or repair of any special equipment or adaptations to the property in respect of disability or infirmity of tenants.
- Individual emergency alarm systems.
- Subscription or fee-based television (eg satellite television subscription).
- Such communal social recreational areas as gyms, bars, shops, hairdressers, internet rooms, restaurants, café's or swimming pools.
- Gardening for individual's gardens.
- Water, sewerage and utility charges relating to anything other than communal areas.
- Arrears of service charges owed by the tenant due to non-payment.

Catering Costs

Catering in Extra Care Housing may be provided in a variety of ways. Some RPs will provide and equip a kitchen which a third party caterer then uses to offer a service to residents on a 'pay as you go'

basis, possibly extending the service to people in the wider community – but with all of the financial risk carried by that provider, and with the risk for the RP and residents that if the service is not viable it will cease operating. Costs for eg maintaining /repairing /renewing the



kitchen and its equipment will however fall to the RP. Unless they have leased the whole of the service including kitchen and equipment to an outside body (including the repairing/maintaining responsibility along with this) the RP will need to recover these costs out of rent or service charge income.

In addition, some providers may offer the service directly and carry the financial risk otherwise (above) carried by a 3rd party caterer. However, other providers will provide catering as a condition of tenancy or lease, and thus payable as part of the service charge, which of course reduces the risk that costs will not be covered. In the social rent sector, to make the service affordable for tenants on lower income, costs may be covered in part by Housing Benefit (but see the important caveat below about the possible impact of the WRA). The cost of food is classed as an ineligible cost for Housing Benefit.

However, many Extra Care Housing schemes in the rented/mixed tenure* sector offer a catering service (usually

one meal day provided at lunchtime **) as a condition of tenancy which the resident pays for via the service charge, and – for tenants – the cost of this service can partly be recovered via by Housing Benefit if the cost is deemed reasonable, (at the full cost minus a standard deduction – which for 2012/2013 is £16.85 per resident, per week).

Lastly, private Extra Care Housing schemes will often include the cost of some catering provision within the service charge, but without needing to address issues of benefit eligibility as described above. One model is to include a specific amount in the service charge, ‘ring fenced’ to fund catering which then allows the resident to consume a given no. of meals per month, and offers a degree of subsidy/certainty for the catering operation, while leaving the resident free to also buy additional meals or not as they choose. For further information see the Housing LIN Factsheet on Catering Arrangements in Extra Care Housing.⁶¹

* one model used in mixed tenure schemes, which offer catering to tenants as a condition of tenancy, is to include the full costs of the service less food costs within the leaseholder service charge, but leave leaseholders free to take meals on a ‘pay as you go’ basis. This is also used in some private models.

** Generally the ‘condition’ requires tenants to pay for meals on every day that the service is provided, usually 365 days a year, but there are some examples where the condition is to receive meals on some days but not every day (one example requires tenants to pay for a meal 275 days p. a.), leaving tenants free to choose to pay for a meal on other days. (It is not however possible to make payment for just non-food costs a condition of tenancy and attract HB support – the ‘condition’ must include the actual provision of food).

61 www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Factsheets/Factsheet22.pdf

WRA implications – catering funding

- It is hard to predict the impact of WRA changes on the funding of catering via service charges
- The revised approach to service charges set out under the Universal Credit Regulations reiterates the non-eligibility of meal costs. Although these rules will not for the time being apply in Exempt Accommodation, some commentators believe this could change in future, at which point they think it will be highly unlikely that this funding route for catering costs will remain available
- Others, however, point out that the current funding of catering through HB, where the service is provided as a condition of tenancy, operates despite the fact that meal costs are currently not eligible, and therefore speculate that this might continue to be the case in future
- Overall, it will be prudent for providers that use this approach currently, to consider contingency plans for whether and how catering services in schemes can be sustained in future.

Call Systems and Telecare Monitoring Costs

Although the funding of community and social alarms is designated as an ineligible cost for Housing Benefit purposes, the position in practice is more complex. Community alarm services in Extra Care Housing, as in sheltered housing, serve several purposes:

- Communication on housing and estate management matters: Residents use these systems to seek advice and information and to alert the housing provider – for example to report urgent repairs out of hours.
- Communication about care and support needs and issues: Residents can also contact the housing provider and/or the on-site care provider on care and support issues/needs, using the call system.

Moreover, funding should ideally reflect these dual purposes. Hence the response service given by the housing provider (via their own in house social alarm centre or externally contracted) has often been funded partly through the Service Charge, and covered by Housing Benefit – insofar as this is an aspect of housing management – and partly through Supporting People. In practice, allocating activity and costs between these two categories is difficult, so providers may aim to agree with funders an overall



apportionment of costs between housing management and support, possibly based on some evidence about the relative scale of the various types of contact. However, with the withdrawal of Supporting People money (in England), the position is less clear, and changes in service charge eligibility may cause further uncertainty.

In practice, providers can include the maintenance, repair and renewal costs of alarm systems – ‘the hardware’ – in their service charge as Housing Benefit-eligible items.

However, Telecare devices such as fall detectors, movement monitors and so on, will normally be funded initially by health or social care budgets based upon residents’ individual assessments. These devices are often linked to the scheme’s call system and monitored in the same way as voice calls from residents, in which case the cost of responding to alerts from monitors may be covered in the overall charge for

responding to alarm calls. It may also, or alternatively, be funded as part of the resident’s care package; from the wellbeing charge, if one applies in the scheme in question; or by the resident themselves.

Lastly, the availability of funding and route through which it comes, is likely to depend upon, among other things, on the regularity/ predictability (or otherwise) of the monitoring activity required. Even with the emergence of part wireless systems, there are significant differences in cost between the installation of Telecare sensors and systems during initial construction of a scheme and the subsequent retrofitting of this equipment into completed units. It is usually advisable to incur some speculative installation costs in the initial development to simplify the addition of the sensors at a later date, even if there is uncertainty as to how the running costs of the system will be met.

B) CARE AND SUPPORT COSTS RECOVERY

KEY POINTS

This section is most relevant to housing and care providers and local authorities with responsibility for adult social care, but is also relevant to health funders. It will also be of interest to those involved in other ways in the development of housing with care, for example potential capital funders.

This section elaborates on the following key points:

- Local authorities with responsibility for adult social care (LA ASCR) fund care for people with unmet care needs which meet the authority's eligibility threshold. They may charge the person following a means test.
- Personal budgets are the growing "currency" of care procurement in extra care housing.
- Personal budgets do not necessarily cover the cost of having care available around the clock
- Local authority approaches to funding care in Extra Care Housing range from micro-commissioning (spot purchasing) for individuals at one end of the spectrum to block-contracting the entire care provision at the other.
- Between these two extremes, a mix of spot purchasing for planned care and other approaches to cover the availability of care around the clock, is becoming increasingly common. In this Technical brief, this is called the "core and add-on" approach.
- Within the core and add-on approach, there are many variations around what constitutes the "core" and how it is funded. Approaches to funding the round-the-clock care as part of the core are outlined in this section.
- People who have care or support needs, but are not eligible for care funded by the LA ASCR may, in some areas, still be able to access Supporting People funding although this appears to be less common. They may also be eligible for an Attendance Allowance. This benefit cannot pay for both the planned support and the wellbeing charge if these are separate.
- Other potential sources of funding for care and support include health sources and – in very specific instances – insurance type products.

A key defining feature of Extra Care Housing, and what differentiates it from other forms of housing including sheltered housing, is the availability of scheme-based care and support around the clock.

In this section, we cover the essential financial aspects as far as possible, but the Housing LIN's *Care and Support in Extra Care Housing Technical Brief* (2010) should be seen as the primary source of information about the wider aspects of funding and provision of care and support in Extra Care Housing. That document is much more detailed with a broader focus, and although it is due to be updated this year, much of the funding-related information in it still applies.

Personal Care

Local authorities with responsibility for Adult Social Care (LA ASCRs) are the key source of financial support for individuals with care needs living in Extra Care Housing, both in the social and private sectors, if two conditions are met:

- Firstly that individuals' unmet needs for care following an assessment meet the prevailing eligibility threshold, AND
- Secondly that following a means test, their financial circumstances entitle them to full or partial local authority funding of services which meet identified needs.

Eligibility for care

Eligibility for social care is currently covered by guidance issued under section 7 (1) of the Local Authority Social Services Act 1970, *Prioritising need in the context of Putting People First: A whole system approach to eligibility for social care* (2009)⁶² which replaces the 2003 *Fair Access to Care Services guidance*.⁶³ The new guidance retains an eligibility framework "graded into four bands, which describe the seriousness of the risk to independence and well-being or other consequences if needs are not addressed" across a number of domains (pp17-18). The four bands are categorised as low, moderate, substantial or critical. Local authorities can decide the levels from which they arrange and fund care. Many fund critical only, or substantial and critical only. This guidance appears to encourage local authority investment in wider support services including universal services and early intervention and prevention. More information on this may be found in the *Care and Support Technical Brief*.

The Commission on Funding of Care and Support⁶⁴ chaired by Andrew Dilnot noted inconsistencies in the way the eligibility framework was being applied across the country and recommended the introduction of a national eligibility threshold for adult care and support in England. The government has signed up to this and the draft Care and Support Bill includes the

⁶² www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_113154

⁶³ It should be noted that although the 2003 guidance has been superseded, the term "FACS eligibility" is still commonly used to refer to local authority eligibility criteria

⁶⁴ www.dilnotcommission.dh.gov.uk/our-report/

necessary powers to set a national eligibility threshold, to be introduced in April 2015,⁶⁵ though details have yet to be worked out.

Eligibility for financial support

The rules for charging for individuals' care services are governed by a national framework known as Fairer Charging. Because 'Extra Care' is a form of housing, not residential care, the care and support provided to those living within it are covered by non-residential charging provisions and principles. Section 17 of the *Health and Social Services and Social Security Adjudications Act 1983* (HASSASSA) gives councils a discretionary power to charge adult recipients of non-residential services provided by the council. This is likely to be repealed when the Care and Support Bill is enacted, but the principles are likely to remain the same. The associated guidance is also likely to be updated.

In addition, charging policies for these services vary across local authorities, but should comply with the guidance⁶⁶ updated to reflect the switch to personal

budgets. For more information on charging for care in Extra Care Housing see *Care and Support in Extra Care Housing Technical brief* p. 64⁶⁷ and other relevant Housing LIN publications.^{68, 69}

In February 2013, the Government announced its intention to implement a new funding model for adult social care, to be introduced from 2016, based on the recommendations of the Commission on the Funding of Care and Support (the Dilnot Commission).⁷⁰ Over coming weeks and months, the Housing LIN will produce analyses and comment on the new funding arrangements, and their implications for housing and Extra Care Housing. For the purposes of this Technical Brief, the headline features of the new scheme include a cap equivalent to £72,000 prices (equivalent to £61,000 in 2010/11 prices) on the costs an individual has to pay to meet their eligible care and support needs. This will apply to adults resident in England (a lower cap will apply for those of working age). This will apply to people's eligible care in all settings, so will embrace people living in their own homes, including those in Extra Care Housing.

⁶⁵ HM Government. *Caring for our future: progress report on funding reform*. July 2012

⁶⁶ Guidance issued under s. 7 of the *Local Authority Social Services Act 1970*, *Fairer Charging Policies for Home Care and other non-residential Social Services*, *Guidance for Councils with Social Services Responsibilities*. DH (2010) *Fairer Contributions Guidance: Calculating an individual's contribution to their personal budget*

⁶⁷ www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Technical_briefs/Technical_Brief_01_0610.pdf

⁶⁸ www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Reports/Charging_in_ECH.pdf

⁶⁹ www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Factsheets/Factsheet19.pdf

⁷⁰ www.dh.gov.uk/health/2013/02/funding-socialcare/

*'A personal budget is the amount of money that a council decides is necessary to spend in order to meet an individual's assessed needs. The budget can be allocated as a direct payment or the council can retain direct control of the budget.'*⁷¹

Funding currency – Personal budgets

LA ASCRs may fulfil their duty to make arrangements to meet eligible unmet care needs in a number of different ways: through direct provision (increasingly rare); through a framework, spot or block contract with an external provider who then delivers a service; through a managed personal budget where the local authority holds the contract with the provider as before, but the overall service to the individual is initially expressed in monetary terms; or finally, through a direct payment.

Direct payments are one form of personal budget in which the money passes to an individual who then controls the budget and uses it to meet defined outcomes. They are covered by Direct Payment Regulations.⁷²

Personal budgets, both in the form of direct payments and managed budgets, are increasingly being used as the “currency” of care provision for

individuals who live in Extra Care Housing and meet eligibility thresholds. This trend is likely to continue with the recent White paper *Caring for our Future: reforming care and support* reinforcing this direction of travel: “We will legislate to give people an entitlement to a personal budget as part of their care and support plan, and will strengthen our ambitions on direct payments.”

In addition, an individual or the council may set up an individual service fund⁷³ with a provider to manage a personal budget on behalf of the individual; anecdotal evidence suggests this option is little used at present within Extra Care Housing.

Lastly, it should be noted that hand-in-hand with the introduction of personal budgets as the care currency is a shift of risk from local authority to provider. This is because block contracts as a procurement approach for care in Extra Care Housing appear to be in decline, and individuals should be under no compulsion to use their personal budgets on care provided by the on-site provider.

Other sources of funding for individuals' care needs

With regard to people living in Extra Care Housing whose primary need is for ongoing health care, they may qualify for continuing care funding. The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care, revised in July 2009⁷⁴ sets out

⁷¹ Department of Health. (2010) *Personal Budgets for Older People – Making it Happen*

⁷² HM Government. *Community Care (Direct Payments) Act 2006*

⁷³ Groundswell (2012) *Choice and Control for all: The role of individual service funds in delivering fully personalised care and support*



the basis for deciding who is entitled to continuing care paid for by the NHS and free at the point of delivery. Four indicators are taken into account: the nature of the need(s), complexity, intensity and level of unpredictability. Continuing healthcare funding can be provided to individuals in their own homes and if the person is terminally ill, the assessment for it can be fast-tracked. For more information on continuing care funding and the National Framework, see: www.nhs.uk/chq/Pages/2392.aspx?CategoryID=68&SubCategoryID=681.

For people with long term conditions, personal health budgets may be an option. These are currently being piloted in some areas and are likely to be rolled out nationally. *“As personal health budgets are extended beyond the pilot sites, subject to the current evaluation, we will make it straight forward for people to combine them with personal social care budgets so that they can make the most of the support to which they are entitled.”* (P. 58 of *Caring for our Future*, Department of Health)

What about the care that is not covered by these statutory arrangements?

There is no duty upon councils to pay for care provision over and above an individual’s care plan. In Extra Care Housing, income for care plans is very unlikely cover the costs of care apart from those directly associated with care plan delivery. In other words, it is unlikely to meet the costs of a care presence at the scheme around the clock to respond to emergencies and fluctuations in need. In addition, by definition, anybody whose needs fail to meet eligibility thresholds is excluded. Thus, we need to consider the following:

- Sources of funding for round the clock care in housing with care – ie the gaps between the care plans plus having staff available to respond to unplanned care needs.
- Possible alternative sources of funding to help individuals meet the cost of care and support services if they need them.

74 www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_103161.pdf

APPROACHES TO FUNDING ROUND-THE-CLOCK CARE

The Care and Support in Extra Care Housing Technical Brief outlines several ‘models’ for procuring and funding care in Extra Care Housing (See p. 25) with case studies illustrating each (see p. 42). Of relevance here is the range from “pure” micro-commissioning for an individual resident at one end of the spectrum, to block contracting all the on-site care for all residents at the other, with an approach which has elements of both in-between:

- spot purchasing or micro-commissioning
- the local authority block contracting care, with or without an opt-out for residents
- the “core and add on” approach.

A variety of terms may be used to describe the above approaches to care procurement in Extra Care Housing. It should not be assumed that where different local authorities use the same name to describe their models, these models are in fact the same; or that they do not broadly fit somewhere along this spectrum, despite many differences in the detail.

For example, two county councils both use the term “flexicare”, yet their approaches are quite different. One is a form of “core and add-on” in which the council makes a grant to the housing provider to contribute to the cost of the minimal core service which comprises the 24/7 care cover plus an element of support and housing management, with

all individual care packages spot-purchased. In the other, the bulk of the care, both 24/7 and planned, is procured under a block contract between the council and care provider; the contract includes sleeping night cover and planned care based on bands or levels – a third each of low (1.5 hrs per week), medium (7 hours p. w.) and high (14 hours p. w.) – with the facility to spot purchase waking night care where needed.

Spot purchasing or micro-commissioning

In this model, care to meet assessed eligible needs is procured from a provider on an individual basis. This might be through personal budgets or the individual’s own money. The income received by the provider is unlikely to cover the cost of providing round-the-clock care even if everyone at the scheme has care needs, unless the hourly charge is inflated to cover gaps between planned care episodes. Inflating the hourly charge is likely to make the on-site service appear uncompetitive, and if not everyone has care needs, those who do will be subsidising the benefit of a 24/7 care service for those who do not. Thus spot purchasing by the hour does not seem to be a realistic route, on its own, to achieving round-the-clock care in Extra Care Housing with some slack to respond to emergencies and fluctuations in need.

A variation is the spot purchase of care in bands or care levels rather than units of

time, intended to introduce greater flexibility in the care provision. Whether this approach covers the cost of round the clock care will depend on whether people's care requirements are near the top or bottom of the band, the income per band, number of people receiving care – in other words, whether this less transparent form of procurement leaves enough money over from planned care to cover the cost of unplanned care.

Block contracts

In social sector Extra Care Housing, a common approach used to be for the local authority to set up a block contract with a care provider (who may also have been the housing provider if registered to deliver domiciliary care). This contract would cover both planned care and round-the-clock cover. This contract might simply have comprised the total number of care hours, been expressed in terms of the number of people in different care bands, or been more specific about the care configuration. Residents with care needs were encouraged or expected to receive their care from the on-site provider, and various charging arrangements were in place.

There are both advantages and disadvantages to having a block contract. These are explored in the Care and Support Technical Brief. Although personal budgets can be used to call off a block contract, with the move towards “personalisation” and self-directed support, the use of block contracts is

discouraged, and potentially wasteful if the block is not fully utilised by residents who choose to receive their care from off-site providers. It is not known how many all-encompassing block contracts are still in place but the introduction of personal budgets, coupled with shrinking budgets and a growing demand for care services, has seen a reduction in the number of block contracts designed to cover the full care provision in Extra Care Housing. These will therefore not be covered in any greater depth in this Technical Brief.

Lastly, if given the necessary opportunity and support, residents may choose to pool their personal budgets, and collectively procure care from a single provider of their choosing, to a specification agreed by them – a genuine co-production approach.

Core and add-on model

In the context of personal budgets, the model which appears to be gaining most traction is the “core and add-on” model. This approach has been prevalent in private Extra Care Housing for years, but concerns about falling foul of care home registration deterred many social sector commissioners and providers from adopting it until the advent of personal budgets. In essence, the core comprises the round-the-clock care presence which at a minimum fills the gaps between the planned care, and the “add-on” is planned care in the form of individual care packages. These may be “spot” purchased by individuals using their own

money as generally applies in private sector schemes, by social services through managed personal budgets or direct payments, or a combination.

It should be noted that even within this 'model', the variations are significant and revolve around:

- Who funds the core and on what basis?
- If a charge for the core service is made to residents, who makes the charge?
- Is it a separate charge or is it included as part of an over-arching service charge?
- What precisely is covered by the charge – or put another way, what does the core constitute?
- How much is the charge?
- How generous is the care element of the core? For example, does it simply cover the gaps between care plans or is some slack or floating time incorporated to enable a more flexible and responsive care service?

Those questions of relevance to the funding of housing with care services are considered in turn below.

WHO FUNDS THE CORE AND ON WHAT BASIS?

The core may be funded by a provider or by the local authority/public sector.

Provider funding:

- This model appears to be on the increase. The provider takes the risk to deliver a round-the-clock care service

without any form of state subsidy. Where they do so, they are likely to make a charge to cover the costs of the provision over and above planned care. There may be an element of cross-subsidy from income for other services they provide, or spreading costs more widely by providing, for example, outreach care and support services to people in the wider community.

- They will promote themselves to residents as the provider of choice to deliver planned care, thereby spreading infrastructure costs and making the service more cost-effective and financially viable.

Public sector funding:

• Local authority funding

Where a local authority funds the care core, this may be directly procured through a block contract or by making a grant for the provision. In past years, Supporting People funding contributed to the round-the-clock cover. With the loss of the Supporting People ring-fence and tightening budgets, this appears to apply less and less

• Health funding

With the Department of Health White Paper's encouragement of preventive services and closer integration between health, social care and housing, a case could be made for the NHS to contribute to the cost of this service, particularly if there are health-related services provided at the scheme, for example intermediate care/step-up step down properties.

- **European Procurement and State Aid Rules**

Where state funding is involved, councils need to be aware of European Union procurement and state aid rules and obtain legal advice if necessary as these are extremely complex. A useful source of information on these as they apply currently is the June 2011 TLAP publication *Social care procurement: A briefing note on procurement, state aid and consultation matters relevant to the provision of social care services*.⁷⁵ It includes some useful flow charts on state aid, De Minimis Exemption and defining an “undertaking” as part of the Appendices.

These rules are beyond the scope of this Technical Brief. Put very simply, the state aid and procurement rules operate together. They aim to ensure transparency and fairness in selecting providers, and to avoid distorting competition and giving unfair advantage to one company over another. There are currently two categories of purchasing, Part A and Part B, the former being more onerous than the latter. Social care purchasing will generally be categorised as Part B services under the *Public Contracts Regulations 2006*.⁷⁶ If the value of a social care purchase is under the threshold (currently (£156,442), not even Part B regulations apply. All that is needed is a fair procurement process including a proportionate level of advertising, equal treatment between those who respond,

being non-discriminatory and making the process transparent.

Even with grants, as distinct from a service procurement contract, the most practical way of avoiding any breach of state aid rules, while remaining compliant, is to have an open and competitive procurement or subsidy-allocating process. Payments should be no more than the market rate for such goods and services, or provided on a purely commercial basis or at a level consistent with the “De Minimis Aid Block Exemptions” (aid of less than €200,000 within any rolling period of 3 fiscal years).

These rules are expected to change in 2013 or early 2014. Social, health and educational services will have their own specific regulations and will be subject to a higher contract value threshold of €500,000 (circa €420,335) and simpler procedures.

IF A CHARGE IS MADE TO RESIDENTS, WHO MAKES THE CHARGE?

Local authority

If the local authority has a services contract with the provider, they may include an element for the 24/7 cover within their charging policy, subject to a Fairer Charging assessment. While legally

⁷⁵ www.thinklocalactpersonal.org.uk/_library/Resources/Personalisation/Personalisation_advice/2011/23_6_11_SOCIAL_PROCUREMENT_DOC.pdf

⁷⁶ www.legislation.gov.uk/uksi/2006/5/pdfs/uksi_20060005_en.pdf

it appears possible, in practice it may be difficult to recover the charge from those residents not in receipt of planned care. (For further detail see Care and Support in Extra Care Technical Brief).

Provider

Where the local authority has made a grant, or where the provider uses its own resources to fund the provision, the provider may make what is commonly called a wellbeing or peace-of-mind charge.

IS IT A SEPARATE CHARGE OR IS IT INCLUDED AS PART OF AN OVER-ARCHING SERVICE CHARGE?

Both approaches are used:

- Typically in the private sector, the cost of round-the-clock staffing forms part of the broader service charge. The service charge might also include other care-related elements such as the cost of registering with the Care Quality Commission, and the care call equipment.
- In the social sector it is often a separate charge, but even in this scenario it may not be limited to care costs.
- If the charge is non-elective, whether as a separate charge or as part of the service charge, it is de facto a condition of occupancy. There is a theoretical risk

of this being seen as accommodation and personal care provided together and liable to registration as a care home, but assuming that residents have free choice over their planned care, the risk in practice appears negligible. It is unclear which is safer in this context: a separate charge, or being bundled together with housing-related elements in an all-encompassing service charge.

WHAT CONSTITUTES THE CORE?

This has a bearing on what additional funding is needed for other services provided at a given Extra Care Housing scheme. The charge may simply cover the availability of care staff around the clock. It may also include housing-related support or more general support services. It may cover activities facilitation and community development activities. It is not unusual to see a specified unit of domestic support included.

Even if the charge only covers round-the-clock care, a significant proportion of staff time may be made up of planned care, with only night cover not tied in to care plans, or it may allow for floating time over and above the gaps in care plans. Whatever the core charge covers, it is essential that residents are made aware of their entitlements under the charge, and the boundary between ad hoc provision and planned care. For example, where would responding to an

exit alert triggered by a resident with dementia sit – as part of a care plan, or, given that these episodes are unpredictable, under the core charge?

In the private sector, where the on-site care presence is part of the overall service charge, the charge will also cover accommodation-related service elements – scheme management, communal cleaning etc. There may be an element included for the catering staff. This is common in the private sector schemes that have onsite dining facilities and in the social sector in models where meals are explicitly made a condition of tenancy, in which case they are currently covered by housing benefit, minus a fixed deduction for food costs (see more detail on Catering Costs in section on Service charges).

LEVEL OF CHARGE

The amount charged varies greatly across the country and depends on:

- Whether there is an element of subsidy
- What precisely the charge covers
- How many people or properties the charge is divided between (and across one scheme or several schemes)
- Staffing structure, levels, terms

and conditions

- The basis for deciding the charge (eg on actual costs or assumptions about availability of benefits).

In some local authorities, the cost of the core service is included in the personal budget and the charge is taken into account when undertaking a Fairer Charging assessment for those in receipt of planned care. In others it is not, and individuals are expected to fund it out of their own resources, which raises the issue of affordability if it is too high. When setting the amount, it should not be assumed that Attendance Allowance will necessarily be available to residents to pay the charge; not all residents will be entitled to Attendance Allowance, and some local authorities count the Attendance Allowance as available income when undertaking Fairer Charging assessments. It can't be available twice.

Affordability is a key issue where the core/wellbeing charge is not subsidised in some way. Further work on affordability is being undertaken by the JRF as referred to earlier.⁷⁷

See tables E and F, following, for diversity of charges for the core service in Extra Care Housing.

⁷⁷ www.jrf.org.uk/publications/quality-life-housing-care

Table E : Charge Made By Local Authority

	Those eligible for care			Those ineligible for care		
LA	Contractual basis	Level of charge	What it covers	Contractual basis	Level of charge	What it covers
A	Part of care agreement	£25.00	Presence of care round-the-clock to respond to emergencies and unpredicted fluctuations in need	Not clear	£25.00	Presence of care round-the-clock to respond to emergencies and unpredicted fluctuations in need.
B	A care charge agreement is signed prior to scheme entry	£39 per week	1hr 45 mins care and support to be chosen from a menu of services and 24/7 presence of care and support team	A care charge agreement is signed prior to scheme entry	£39 per week	1hr 45 mins care and support to be chosen from a menu of services and 24/7 presence of care and support team

Table F : Charge Made By Provider

Type of provider	Contractual basis	Level of charge	What it covers	Size of scheme(s)
1) A couple of schemes of one RP (providing both housing and care) in one LA area – source LA	Arrangement between resident and care provider but not clear whether anything in writing to make it mandatory	Varies between schemes: £14 per week in 70 unit scheme and £25 per week in 40 unit scheme	Contract with LA to provide 24/7 care response (one staff during day plus care team leader office hours) and 1 waking night staff, some help with activities facilitation and catering infrastructure. No Housing Related support as such.	One 70 and one 40

Type of provider	Contractual basis	Level of charge	What it covers	Size of scheme(s)
2) Registered housing and care provider – source LA	Condition of occupancy	£30 per week	Emergency response 24/7, personal care if taken ill, general support and assistance, activities facilitation and some housing management tasks.	65 properties
3) Charitable Trusts – separate housing and care providers – source provider	Charge forms part of the tenancy agreement	£7 per week	Availability of care 24/7	63 properties
4) Private provider – for sale properties – Source provider	Part of lease and included in the management and service charge	Approx. £120 for a one-bed property and £165 for a two-bed property per week	Estate management and admin, usual accommodation-related services such as gardening, utilities to communal areas, communal cleaning, catering infrastructure 24/7 care presence, 1 hour's domestic assistance per week per property.	52 properties (55 properties is the level at which costs can be covered)
5) Registered housing and care provider – source-provider	Separate wellbeing contract between resident and provider	£130 in a 24 unit scheme per week £22 in a 104 unit scheme per week	Alarm call, waking night staff, 24/7 presence, and other care infrastructure costs	24 and 104

POTENTIAL SOURCES FOR INDIVIDUALS WITH INELIGIBLE CARE OR SUPPORT NEEDS

Supporting People

In the last Funding Technical Brief, Supporting People (SP) revenue funding provided a regular income stream to many social sector Extra Care Housing schemes. The Supporting People Fund was ring-fenced. Eligible services were defined centrally (although interpreted in different ways by local authority SP commissioners and administering authorities) and registered and monitored using a Quality Assessment Framework which changed over the years. Although it was intended to be tenure neutral, those in receipt of housing benefit were passported (subsidised) without further means-testing, while many authorities did not make the fund available to homeowners.

However, Supporting People is no longer ring-fenced (in England) and the picture appears now to be much more varied. There is less money available. *“Supporting People was rolled into Formula Grant from April 2011 increasing authorities’ freedom and flexibility in how they are able to spend their funding. As Formula Grant is a single grant that is not divided by any service in any way, there is no specific budget allocation for Supporting People*

*services.”*⁷⁸ Some local authorities have not retained SP teams and even where they have, they do not all support people in extra care schemes; where they do, the amount seems to have diminished as local authority budgets have been squeezed. Some authorities do still maintain local structures around Supporting People funding, commissioning and quality assurance even though the formal, national structure is no longer in existence. Where housing related support remains as a separately designated funding stream, residents may continue to be liable for paying a separate support charge, and may still be eligible for passporting to free support if they are Housing Benefit recipients, or may be assisted to pay the charge after a Fairer Charging assessment.

We do not have an overview of how many schemes across the country benefit from Supporting People funding. However, housing related support has been shown to help maintain individuals’ independence, fulfilling a preventative function, and even if it is not a block-contracted service SP funding may be available to some individuals in Extra Care Housing schemes as a specific floating support service. And lastly, even though support funding is becoming more marginal overall, there are still important issues in how housing related care and support activities are configured at scheme level, in respect of:

⁷⁸ www.communities.gov.uk/housing/housingresearch/housingstatistics/housingstatisticsby/supportingpeople/

- how core/wellbeing charges are set up – see previous
- The impact of the ‘Turnbull Judgment’ – see D) Housing, care and support crossover issues, following
- The role of Scheme Managers – again, see D) Housing, care and support crossover issues.

Attendance Allowance

Attendance Allowance is a benefit that can assist people to meet their care and support costs. See Section on Welfare Benefits above for more information.

Equity release schemes

Equity release is a term that refers to the various ways in which older homeowners can use their homes to generate income or lump sums, either with a loan secured on their home or by selling their property. It is a possible route for some people in Extra Care Housing to fund the costs of their housing and/or care and support.⁷⁹

However, while some Extra Care Housing providers offer financial products aimed to help residents release equity, this is not

(at least yet) a well-developed market. The Joseph Rowntree Foundation funded the development of a pilot project using a specially designed equity release product from January 2010 to June 2011.⁸⁰ After 18 months of publicising the product, the number of enquiries was small. It is reasonable to conclude that equity release products will need to be well tailored to the needs of older people, and well trusted before they can offer a route for more than a minority of people living in or contemplating Extra Care Housing to fund their costs. Housing market conditions are also key determinants of the availability and viability of equity release products, bringing a further degree of uncertainty to how widely these could be used.

A recent Age UK factsheet on equity release⁸¹ sets out a range of issues that should be borne in mind by any older person contemplating this route; anyone in this position should of course also be recommended to seek independent legal and financial advice. Further information on equity release from a policy perspective can be found in the recent Housing LIN Affordability Guide.⁸²

⁷⁹ www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Viewpoints/Viewpoint19_Downsizing_II.pdf

⁸⁰ JRF (2012) *Assessment of equity release pilot scheme* www.jrf.org.uk/publications/equity-release-pilot-schemes

⁸¹ www.ageuk.org.uk/Documents/EN-GB/Factsheets/FS65_Equity_release_fcs.pdf?dtrk=true

⁸² Copeman, I. and Pannell, J. (2012) *Can self-funders afford Housing with Care? A guide for providers and commissioners*. London: Housing LIN www.housinglin.org.uk/Topics/browse/HousingExtraCare/FundingExtraCareHousing/?parent=1007&child=8655

Insurance type products

A small number of RPs and private sector providers have developed insurance type products which are provider-specific and not generally available to residents in Extra Care Housing.

The current changes in how actuarial assessments are made, which have resulted from the EU Gender Directive, will prevent gender being factored into the forecasts of life expectancies which are necessary as the basis for insurance products. The immediate effect of this Directive will be to reduce the amount

of income available to women through annuity type products, (and increase the income available to men). It would also adversely affect the risk management of new actuarial-based assessments for future accommodation, care and support costs which seek to quantify these future costs for each individual, based on their age expectancy and health, and then commit to provide these in return for a one off payment from the individual. This payment is then pooled with others received for the same purpose and invested as a fund to meet the future accommodation, care and support costs.



C) FUNDING QUALITY OF LIFE AND WELLBEING SERVICES

KEY POINTS

This section is most relevant to housing and care providers, local authorities with responsibility for adult social care, Health and Wellbeing Boards and Clinical Commissioning Groups. It will also be of interest to those involved in other ways in the development of housing with care, for example potential capital funders.

- Funding sources for activities facilitation in Extra Care Housing have always varied between schemes, authorities and providers, with a range of combinations including: forming part of the service charge or wellbeing charge; included in a local authority block contract for care and/or housing-related support; a charge for taking part in specific activities, and fund-raising.
- Health funding may be available for health and wellbeing-related initiatives such as intermediate care flats, wellbeing nurse, dementia provision and falls prevention/exercise programmes. Providers need to engage with Health and Wellbeing Boards and Clinical Commissioning Groups where possible.

ACTIVITIES FACILITATION AND COMMUNITY DEVELOPMENT

There is a significant body of evidence demonstrating the value of communal facilities, social activities and community life in combating loneliness and social isolation, and promoting the social wellbeing of people who live in Extra Care Housing. In their research⁸³ as part of the evaluation of Department of Health funded schemes, the PSSRU at the University of Kent identified a range of

approaches to organising activities in housing with care schemes, from those led primarily by residents at one end of the spectrum, to those where a staff member arranged them at the other, and many variations in-between. Facilitation of activities is particularly important in schemes where many residents are frail, but also to ensure that all residents, not only those on the social committee, have access to activities they value and enjoy. Who undertakes this task varies; it may be the scheme manager or assistant, care/support staff or an activities co-ordinator.

⁸³ Callaghan, L (2009) *Social wellbeing in Extra Care Housing: Main findings* www.pssru.ac.uk/project-pages/extra-care-housing/index.php

Furthermore, funding of activities facilitation has always varied. In some areas, Supporting People funded this function. In others it formed part of the contract with Social Services. In yet others promoting wellbeing was the subject of a grant to the provider. It may be part of the “core” along with round-the-clock care and support and included in a wellbeing charge. Typically, RPs’ scheme manager roles in social sector schemes include the role of supporting and facilitating social activities, but with the reduction of Supporting People funding, it remains to be seen how far it will be possible for providers to still fund this activity out of HB-eligible rent and service charge income. Larger RPs of sheltered and Extra Care Housing are in some cases funding non-scheme based staff, eg at a national or regional level – and funded out of core rather than scheme budgets – to help local staff facilitate community links and volunteer activity in their schemes, in response to the ‘Big Society’ agenda.

Private developments may include the cost of facilitation in the overall service charge – and in many schemes, in both social sector and private developments, a charge is made for taking part in specific activities. Depending on the generosity of personal budgets, residents may be able to pool part of their budget to pay collectively for activities of their choice.

Lastly, prevention, early intervention and promoting wellbeing have been part of the government agenda for several years now. The current government continues this theme in the White Paper: *“As part of this shift to a more preventive approach to care and support, the Government will include a*

duty on local authorities to commission and provide preventive services in the draft Care and Support Bill”. It is unclear whether this will increase funds from the public sector in a situation where government social policy and limits on public expenditure compete for priority. In the current economic climate, public sector sources of funding appear to be dwindling. There are, however, examples where Extra Care Housing schemes are hubs for the wider community, and authorities seek to promote the welfare of older people in the wider community, as well as those living in Extra Care Housing, by making funds available. For example, in one care village given as a case example in the Care and Support in Extra Care Technical Brief (Case study 1 p 44), the local authority made a wellbeing grant as part of a framework contract to promote the wellbeing of village residents and the wider community.

SUPPORTING AND PROMOTING MENTAL AND PHYSICAL HEALTH

In some Extra Care Housing developments other “quality-of-life” services are also available, for example, specialist dementia services, wellbeing nurse and health checks, step-up and step-down /intermediate care provision, and falls prevention schemes. In addition, some of the offers in Extra Care Housing can be argued to improve health and wellbeing and fulfil a preventative function. The White Paper states: *“We will place a duty on local authorities to join up care and support with health and housing*

where this delivers better care and promotes people's wellbeing” (p. 53).

There are already examples where PCTs pay for services in Extra Care Housing, for example, intermediate care flats. The current re-structuring of the NHS presents both threats and opportunities. It may prove difficult to persuade Clinical Commissioning Groups of the health benefits of housing-related services. On the other hand, Joint Strategic Needs Assessments and Health and Wellbeing Strategies offer an opportunity to include housing-related options.

The Housing LIN Information Pack – *Getting to Grips with Integration: Making Housing Count* (in Briefing Paper Three – *The new NHS commissioning landscape and its impact on housing and care for older people*)⁸⁴ says that “*Opportunities may be created for providers of housing and housing related support to engage with CCGs (Clinical Commissioning Groups) at a local level to ensure the right mixture of local services, both in terms of the ‘bricks and mortar’ but also the services that might be provided by health care professionals within older people’s housing developments. ... and that ... ‘Preventative approaches, which can and should include housing, can help to stimulate a shift of resources across the healthcare system. This in turn may lead to housing providers being able to contribute to improved quality of care and a reduction in healthcare costs.’*”

As highlighted by the National Housing Federation (*On The Pulse*, 2012),⁸⁵ RPs are

beginning to explore possibilities offered through NHS changes, but it is far too early to say with any confidence, especially given the overall public spending climate and the NHS’s own budgetary pressures, that these changes will unlock significant revenue funding for activities or other kinds of support in older people’s housing . It is important that RPs nonetheless bear in mind the possibility that NHS funding might support services based in Extra Care Housing, and possibly beyond those that are directly ‘health related’ (such as Step up/ down services, End of Life care, and dementia related), given the recognised value of social activities that can support prevention, combat isolation, promote wellbeing and support positive health outcomes. However it will be critical when making the case for this funding to demonstrate as clearly as possible how activities can produce such outcomes, based on evidence wherever possible.

FUND-RAISING ACTIVITIES

As highlighted in Part Two, charitable funding and fund raising have been used by many Extra Care Housing providers, and continue to be important options for raising funds to pay for added value services. For example, one major RP has a number of shops selling second-hand goods, and schemes themselves, will run fund-raising events for specific purposes with their residents.

⁸⁴ www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Information_Packs/IP1_Briefing3_GP.pdf

⁸⁵ www.housing.org.uk/publications/find_a_publication/care_and_support/on_the_pulse.aspx

D) CROSSOVER ISSUES – CARE/SUPPORT/HOUSING

KEY POINTS

This section deal with several issues (some of which have been mentioned already under housing or care revenue), where housing, care and support considerations are all very closely inter-linked, with significant implications for how costs can be recovered by providers.

From the standpoint of providing cohesive, well-coordinated services, deciding the most effective configuration of housing, care and support services is relevant for all Extra Care Housing providers. However, from a funding perspective, these issues are particularly important for RPs; non registered housing providers in the social sector, and for the (so-far small) privately rented Extra care Housing sector, since they are closely linked with:

- The demise or reduction, in many areas, of former Supporting People funding.
- How far housing costs can be recovered via Housing Benefits, depending upon whether Extra Care Housing schemes have ‘Exempt Accommodation’ status, and the impact of the Turnbull Judgment.
- Future funding arrangements generally for supported housing; the future treatment of Exempt Accommodation and the expected impact, once more, of WRA changes in this area of policy (in as much detail as is available when going to press in March 2013).
- How scheme manager posts may be configured and funded (and from which revenue streams).
- Whether shifting costs between various possible funding routes is a viable option (for example the use by some providers of the category of Intensive Housing Management).

These issues are also directly relevant to LHAs carrying out their Housing Benefit responsibilities (which for Extra Care along with other supported housing, are expected to continue for some time into the future as a result of the Government’s intention not to fund supported housing via Universal Credit for the time being).

The crossover issues described here are also relevant for LA ASCRs as they have a direct bearing on:

- how care – but more particularly, any remaining housing-related support services – should best interface with housing management services, and
- which services should be provided by which kind of organisation, in order to provide the most cost effective, as well as the most well-coordinated, approach.

Specific WRA impacts are, once more, highlighted where applicable.

‘EXEMPT ACCOMMODATION’

It should be noted that social rent Extra Care Housing generally counts as ‘Exempt Accommodation’,⁸⁶ defined as:

- Accommodation which is exempt from the determination of the rent officer. The effect, broadly, is that the local authority HB department cannot restrict, by reference to a rent officer’s/Local Housing Allowance determination, the amount of rent eligible for housing benefit unless the HB authority deems a dwelling to be larger than reasonably required, or that the eligible rent is unreasonably high by comparison with the rent payable in respect of suitable alternative accommodation.
- Accommodation provided [under Schedule 3 of the Housing Benefit and Council Tax Benefit (Consequential Provisions) Regulations 2006 (SI 2006/217)] by “*a non-metropolitan council in England within the meaning of section 1 of the Local Government Act 1972 (15), a housing association, a registered charity or voluntary association **where that body, or a person acting on its behalf also provides the claimant with care, support or supervision.***”

Note: *the highlighted wording is of particular significance in relation to the ‘Turnbull Judgment’ see end of section.*⁸⁷

“Exempt Accommodation” is clearly also defined (through the reference to “care, support or supervision”) as accommodation for people in a range of vulnerable groups, which for these purposes includes people over pension age. HB will only refuse to meet of the charges in “Exempt Accommodation” if it deems a dwelling to be larger than reasonably required or that the eligible rent is unreasonably high by comparison with the rent payable in respect of suitable alternative accommodation.

In addition, RP – or LA – run sheltered/ supported/Extra Care Housing is “Exempt Accommodation” where:

- The RP also provides the care, support or supervision.
- The RP’s property is managed by a registered charity or voluntary organisation that provides care and support on behalf of the RP.
- The RP’s property is leased to the registered charity or voluntary organisation that provides the care and support.

However, RP properties are not “Exempt Accommodation” where managed by a registered charity or voluntary organisation that does not provide care and support on behalf of the RP.

⁸⁶ Sometimes also currently referred to, eg in Government documents, as ‘supported exempt accommodation’

⁸⁷ www.dwp.gov.uk/docs/a8-3301.pdf

Exempt Accommodation – Issues which arise for Extra Care Housing:

Each of the following is addressed in turn:

- WRA – Issues/implications arising from the 2011 Consultation on Supported Housing Revenue
- Implications for housing providers other than RPs or LAs
- Configuration of Housing, Care and Support and impact of the Turnbull Judgment.

WRA – Issues raised by the 2011 Consultation on Supported Housing Revenue

In 2011, the Government carried out a Consultation on the future of Supported Housing Revenue funding via Housing Benefit, in the broader context of the transfer of funding for housing costs to become part of Universal Credit from 2013. The consultation raised questions about the future status of ‘Exempt Accommodation’ and sought views on several options.⁸⁸ The consultation categorised supported housing as falling into 2 categories:

- People in conventional supported housing – *“those who commonly need lower levels of personal care and support to help them remain in the community, which is often provided in more communal and easily recognisable types of accommodation such as hostels, refuges, Foyers and purpose-built sheltered housing”*;

For this group, DWP consultation proposed to base payments around the Local Housing Allowance but with fixed additions to recognise the higher costs of providing supported housing this type of housing.

And

- People with more specific housing needs, *“who often need more intensive levels of personal care or support to help them live independently in the community ...and often have more specific housing needs that cannot be met by mainstream or existing supported housing and which is often provided in housing specifically built, acquired and/or adapted for the individual tenant(s).”*

For this group, DWP said: *“additional help will be provided, where necessary, over and above the standard Local Housing Allowance, with decisions about the extra amount possibly made within the commissioning process for supported and specialist housing in which the individual is involved or represented.”*

Sheltered housing was specifically referred to in the first category but there was no specific reference to Extra Care Housing or an indication in which group Extra Care Housing might fall.

⁸⁸ www.dwp.gov.uk/docs/consult-supported-housing.pdf

In September 2012, in response to the Consultation, the Government set out in broad terms their approach to the future of paying for housing benefit in supported and specialist housing; DWP clarified that:

- Additional housing costs for supported and specialist housing, ‘Exempt Accommodation’, will be managed outside Universal Credit (UC) when the latter is introduced in 2013.
- In the short-term, there will be an interim system that is broadly similar to current arrangements. People in supported and specialist accommodation with higher housing costs will continue to be eligible for Housing Benefit from their local authority.
- In the medium term, DWP will design, develop and potentially pilot a more localised system for managing these costs outside the Universal Credit.

At the time of writing (March 2013) it is not clear when further details will be announced, and uncertainties remain, e.g. whether the definition of Exempt Accommodation will remain exactly as it is now.

It is generally assumed that the current funding of Exempt Accommodation will continue to be administered by Housing Benefit departments, but responsibility for funding housing costs will gradually transfer from local authorities to the DWP Universal Credit between autumn 2013 and 2017.

An eventual linkage of eligible costs to the Local Housing Allowance would raise concerns, given the relatively high rents and service charge levels associated with the additional facilities of Extra Care Housing, depending of course on the scale of the ‘additional help’ that might be available, as mentioned in the DWP consultation.

“Exempt Accommodation” – Implications for other housing providers

It can be difficult to decide whether Extra Care Housing other than that provided by RPs can be classed as “Exempt Accommodation”. (SITRA has recently produced guidance and a flowchart to help providers understand how these rules may impact on their particular services).⁸⁹ For example:

Private rented Extra Care Housing

While the scale of privately rented Extra Care Housing is thought to be small, such schemes are not classed as “Exempt Accommodation”, meaning that the level of housing costs recoverable through housing benefit, or in future by housing credit under universal or pension credit, will be tied into the Local Housing Allowance limits.

⁸⁹ www.sitra.org/1779/ and www.sitra.org/fileadmin/sitra_user/2012/Policy/Benefits/Exempt_Accommodation_Briefing.pdf

WRA Implications – private rented Extra Care Housing

The linkage between LHAs and cost recovery in private rented Extra Care Housing will become more challenging as a result of WRA changes. Since 2011 LHAs have been capped nationally, but from 2013 they will additionally be set at the 30th percentile level of local private sector rents, rather than – as previously – at the 50th percentile (so making roughly just 3 in 10 privately rented properties affordable for those on housing benefit in any given area, rather than 5 in 10 as before).

This will also lead to complications where schemes offer an inclusive rent which bundles accommodation costs with other services such as food, housekeeping or laundry. Providers in these schemes are sometimes reluctant to break down their overall charge into its constituent parts which makes it impossible to benchmark the property rent against Local Housing Allowance, even if the overall charge appears to provide good value for the services it includes. If providers in such schemes wish to continue to have residents who are reliant on subsidy through the benefit system, then they will have to adopt more transparent pricing policies.

Note: *the recovery of high levels of Housing Benefit from the DWP is subject to the annual audit process applied to Housing Authorities, who may well be challenged regarding high rent levels in “Exempt Accommodation”. If the DWP decides to reject the Housing Authorities justification, then severe penalties can be imposed on the subsidy claim. It is therefore preferable to avoid rent settlements that are major variances from the Local Housing Allowances.*

Not for profit (but non registered) providers:

Although the current definition of “Exempt Accommodation” includes voluntary organisations and registered charities, some such providers are exploring the options of, for example, becoming registered providers in their own right; or developing legal relationships (eg through management agreements and leases) with registered providers, in order to further secure their Exempt Accommodation status.

It is beyond the scope of this Technical Brief to describe these issues in any detail; even though the September 2012 announcement about the medium term continuation of Exempt Accommodation has maybe made such steps less pressing, the overall future of supported housing revenue funding is unclear.

It may therefore still be prudent for unregistered charitable and voluntary housing providers to appraise the risks and benefits for them of developing a relationship with a RP.

CONFIGURATION OF HOUSING, CARE AND SUPPORT AND IMPACT OF THE TURNBULL JUDGMENT

Although not strictly a matter for this Brief, providers and commissioners need to reach decisions about where support best ‘sits’ in particular schemes, and who should provide it-not least since, for reasons given below, this can impact on the ability of schemes to achieve cost recovery. In practice a variety of models are adopted, linking support either to the housing provider or the care provider –there is no single right or wrong answer. In a few cases, there may even be separate care, support and housing providers, with correspondingly greater challenges around operational co-ordination. To quote from the Care and Support in Extra Care Housing Technical Brief (2010) -page 21:

“While it is valid to argue that care and housing-related support need to dovetail with one another, housing management and housing-related support are also very closely linked, and it is equally valid to argue for the combination of these two functions. Specialist sheltered and supported housing providers see the support element as intrinsic to the service they offer and have concerns with performing landlord functions only. In the same way that there are grey areas between care and housing-related support, there are grey areas between housing-related support and more intensive housing management... Care providers may have little understanding of housing-related support issues, for example information and advice about tenancies, benefits etc. Where the housing provider also provides the care and support, all three functions may be more effectively dovetailed, although there may also be lack of transparency, and other issues of concern”⁹⁰

⁹⁰ www.housinglin.org.uk/_library/Resources/Housing/Support_materials/Technical_briefs/Technical_Brief_01_0610.pdf

Furthermore, within this overall picture, an increasing trend has however been for commissioners to separate housing-related support from housing management and combine it instead with the care contract. This approach runs the risk of falling foul of the ‘Turnbull Judgment’ (2006)⁹¹ which revolves around whether or not a scheme is classified as Exempt Accommodation. This judgment dealt with the connection needed between the housing provider and care/support provider in order to conclude that a supported housing service can be classed as “Exempt Accommodation”; it says “*The amount of care, support or supervision provided by the landlord can vary considerably but it must be more than **minimal***” and must go “*beyond that which is normally provided by a housing provider.*”

If the care, support or supervision is not **directly** provided by the landlord or someone acting on their behalf, then ‘Exempt Accommodation’ status will not apply. In such a case, if the local authority also considers the combined rent and service charge levels too high, it may refer the rents to the Rent Officer, who could restrict housing benefit to the local reference rent rather than covering the full rent at the scheme, significantly reducing the level of income received by the housing provider.

The Judgment, which has been upheld in similar subsequent cases, is clearly a challenge for providers and commissioners, given the way in which

services are frequently commissioned separately in Extra Care Housing. While many housing providers do not provide care, many have in the past provided – and still do provide – ‘support’, thus avoiding the impact of the Turnbull Judgment; however the trend towards to joint care and support contracts can undermine this. This trend, coupled for example with a greater recent focus in recent years on personal choice and personal budgets, means there are now far less rigidly defined links between the provision of housing, care and support – in Extra Care Housing as well as other supported housing – than Turnbull appears to require of such services if they are to be confident of achieving full cost recovery, supported via the benefit system.

Despite this, in practice there does not seem to have been a large number of cases where local authority HB departments have challenged Extra Care Housing providers on these grounds – but providers need to bear this in mind; the risk of closer scrutiny by HB Officers may be become greater, since “Exempt Accommodation” is continuing for the time being, while resources for funding Housing Benefit resources are hard-pressed. Some approaches that have been adopted to mitigate the risk include:

- Where a joint care and support contract is being let, with (otherwise) no direct role for the housing provider, the local authority continuing to still fund the housing provider to carry out some specific

⁹¹ see also *Care in Extra Care Technical Brief* p 21

support activities that 'sit' better alongside housing management activity, or

- The care and support provider subcontracting some aspects of support provision back to the housing provider, or
- The housing provider holding the support contract but subcontracting this role to the care provider, where the commissioners are keen for these 2 functions to be linked operationally with a single provider.

And lastly, in any such configuration, it is key that the support in question is 'more than minimal' so as to satisfy Turnbull criteria. However, there is currently no national consistency about what 'minimal' means.

Scheme Manager Posts

Within Extra Care Housing, scheme manager posts are designed and funded to reflect the configuration of housing, support (and where applicable, care) undertaken.

In schemes where the housing provider is separate from the care provider, posts will embrace housing management, and possibly some support activity if the housing provider still provides support.

In schemes where the provider undertakes both housing and care, the scheme manager post may cover both roles; alternatively the provider may still separate housing and care management

posts. On the other hand, private sector scheme managers may have very limited roles, usually more focused on the cleaning and maintenance of the property than on any form of service to individual residents.

Funding implications

With particular reference to social rented and mixed tenure schemes, funding of these posts is set up to ensure maximum benefit eligibility for those relying on HB and Pension Credit. Of course, the funding of scheme manager posts reflects the range of responsibilities undertaken in each situation, but this is changing for many providers as Supporting People funding is reduced. Housing providers undertaking housing and support have relied upon 2 revenue streams (rents/ service charges, and supporting people) – the allocation between 'net rent' and service charge in turn varies between providers but at least some of the manager's costs are usually allocated to gross rent (ie combined rent and accommodation-related service charge) as a proportion of their time is allocated to 'housing management' as well as to activities that fall within the service charge. For leaseholders, the relevant costs are any such 'rent' element is instead included in their service charge.

Moreover, in schemes where the scheme manager has a hybrid care, support and

housing role, a proportion of their costs may be allocated to social care budgets, with the remainder coming from housing and support revenue. This model has never been that common and in some cases LA ASCRs have withdrawn this part of the funding in recent years.

For posts that include housing and support functions, the proportion of costs allocated to support and housing revenue has varied widely between providers, reflecting their assessment of the relative risks and benefits of placing funding in the different streams. Some providers have historically allocated a high proportion – sometimes up to 80% – of these costs to Supporting People funding, reflecting their view that the post is predominantly about offering support to residents, while others have adopted a much lower proportion of support funding.

However, with the reduction of Supporting People funding, providers have generally had to review their position, clearly with the biggest impact falling on those who had allocated a high proportion of costs to SP. In some cases housing providers are no longer providing support at all – either because the funding has been withdrawn, or because the support function has been transferred to the care provider. Often the ‘support:housing’ funding ratio for scheme manager has changed; for example, from 80:20, to maybe 50:50 or even 0:100. Of course, providers who initially adopted a lower ratio will have less room to manoeuvre.

In such instances, housing providers are then faced with several choices:

- To maintain the current level of scheme manager presence, often seen as vital to maintain the provider’s co-ordination and oversight role in the scheme, by reappportioning the costs of the manager across housing revenue – with the following implications:
 - Housing Benefits will need to agree to pick up these extra costs (perhaps under the category of Intensive Housing Management – (see section on Intensive Housing Management, following)
 - Any element that is added to net rent has to come within the headroom allowed by ‘target’ rents – or for very new schemes, within the 80% ‘Affordable Rent’ figure
 - Residents who are not eligible for Housing Benefits will be liable to pick up increased costs – at the same time as possibly still picking up support costs for the activities of the care and support provider – unless of course the support service and charge goes down by a commensurate amount.
- To maintain the current level of scheme manager presence by a support charge directly to residents but without Supporting People subsidy. This maintains the service and does not add to the Housing Benefit bill, but may well be unaffordable for residents, all of whom (not just self funders) will have

to pay the charge. Of course, the charge will be lower, and affordability issues less, if the SP contribution was lower in the first place.

- To reduce the level of scheme manager presence, in order to maintain costs at their present level.
- To make economies in the way support is provided, eg reducing support input to those with care plans – so that the support element in the scheme manager role can be reduced to fit within whatever funding remains available.

Note: *some schemes also have support assistant posts employed by the RP – although the above refers to specifically to scheme manager posts, the implications apply to all posts that include a support function.*

Furthermore, evidence suggests that providers in some instances are retaining the current level of scheme manager input, and successfully adding the cost previously covered within ‘support’ to the costs covered – currently at least – by Housing Benefit. In some cases, parts of these costs have instead been added to Core/Wellbeing Charges, which have been covered earlier.

Lastly, as highlighted earlier, there are implications and risks for housing providers where support is no longer part of their function arising from up the Turnbull judgment. Partly in response to this, but also to maintain a cohesive

approach to overall scheme management and coordination, some local authorities are continuing to fund housing providers to deliver an element of housing-related support alongside the support funding which is channelled to the care provider. In other instances, the housing provider may be subcontracted by the care and support provider to provide some support (eg via a % of the scheme manager costs/time, and/or to fund the on-call response) – or the housing provider may sub-contract housing-related support to the care provider, thereby still meeting the definition of Exempt Accommodation.

‘INTENSIVE HOUSING MANAGEMENT’

With the reduction in Supporting People funding, some providers have actively explored the option of designating some activities which fall between ‘support’ and ‘housing management’ as ‘intensive housing management’. It has been described as including all of the housing management activities carried out in general needs housing, but carried out more frequently and thoroughly because of the nature of the service and the needs of residents in question. Examples might be the need for a scheme manager to spend a lot of time around sensitive lettings /allocations processes, involving lengthy discussions with referral agencies as well as with prospective residents; or

the need to spend more time with residents once they have moved in explaining how the scheme operates, tenancy conditions, etc. , than might apply in general needs or indeed in 'ordinary' sheltered housing.

It should be noted that 'Intensive Housing Management' is a term that has long been widely used in supported housing generally, but it does not have any formal standing or recognition – for example in Housing Benefit regulations. Despite this, it seems HB officers, in at least some areas, are prepared to consider costs that arise from Intensive Housing Management, and which might have previously been classed as 'support', but clearly there are other 'support' activities that will never be seen as HB-eligible.

It is also important to bear in mind that the potential scope to use Intensive Housing Management is greater where housing providers have previously

classified much of their activity as support, not housing management. By contrast, providers who have adopted a much more restricted definition of support will have far less scope to shift services and costs into Intensive Housing Management.

Lastly, the scope for additional costs, providing they are deemed as 'reasonable', to be met via the HB system also depends upon the continuation of Exempt Accommodation; as noted above, this category is continuing for the time being, and housing costs (including those covered by service charges) in supported housing will for now be met outside Universal Credit. However, pending more detailed information about the future of supported housing funding, there can be no longer term certainty that additional costs allocated to (intensive) housing management will continue to be funded via the benefits system at current levels.



Revenue funding conclusion

This section provides a short summary of the issues facing commissioners and providers funding care and support in extra care housing.

KEY POINTS

- Revenue funding in Extra Care Housing falls under the 2 main categories of housing revenue, and care /support revenue:
 - housing costs are collected via rents and service charges; the kinds of costs covered are broadly comparable to those in other forms of housing, though the higher level of charges reflects the enhanced accommodation, facilities and services offered in Extra Care Housing
 - care and support costs are recovered in ways that are broadly similar to those applying where people are living independently in their own homes elsewhere in the community, but reflect the particular characteristics of Extra Care Housing, especially the need to fund round the clock services, often via a wellbeing charge of some kind, as described above.
- Affordability for residents is critical in all kinds and tenures of Extra Care Housing. This in turn hinges, especially but not exclusively in the social sector, on how far people with lower or modest incomes and savings can access the benefit system to meet at least some of the costs of Extra Care Housing. This in turn means it is critical that providers address the eligibility for benefit of various costs categories, when setting rents and service charges.
- Particularly in the social sector, the way housing, care and support services are configured is very important in ensuring that costs can be recovered, because of the Exempt Accommodation rules, which are now expected to remain in place for the time being, following Government consultation in 2011 on possible changes, and because of the impact on legal rulings on benefit eligibility such as the Turnbull Judgment (and subsequent similar rulings) referred to earlier.
- The major changes arising from the Welfare Reform Act 2012 currently have only marginal impacts on older people and on Extra Care Housing, but as welfare reform policy is still evolving, commissioners and providers need to be vigilant in this area.

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.

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.

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

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