



**WEST LOTHIAN DEMONSTRATOR CAMPUS
STYLE DEVELOPMENT FOR OLDER PEOPLE**

**A review and assessment of the evidence for
mixed tenure extra care housing schemes**



June 2010

Executive Summary

Demand for mixed tenure extra care housing is not yet well evidenced. Overall, policy development is being driven more by opportunism and policy exigency than evidence of consumer demand. This is not necessarily a sound long-term basis.

Mixed tenure extra care housing projects in England have tended to be concentrated in more affluent areas. While it is not certain why, this may partly be an unintended outcome of the operation of affordable housing policy in England, or simply an expression of where interested providers operate. To the extent this is a market driven phenomenon, it indicates that not all areas will be equally suitable for mixed tenure extra care housing. More generally, it highlights the need to ensure local market demand assessments should precede scheme developments.

A dominant model of equity sharing for owner-occupiers within extra care housing schemes has yet to emerge. However, owner-occupied extra care housing may not appeal to people with short anticipated life spans, due to the disproportionate nature of transactions costs they (or their estate) would have to face.

It is not clear that mixed tenure extra care housing projects offer any community benefits and this is a topic that warrants further, arguably national, research.

Older people appear to place greater importance on property and location attributes than on tenure in assessing the quality of extra care housing.

There is no authoritative data on accommodation and service charges for owners living in extra care housing. However, research indicates consumers often perceive such costs to be high.

Cost shunting (mainly through absorbing support costs into accommodation costs) is also causing increasing concern. This may be addressed by DWP as part of Housing Benefit reform (which is currently under active consideration).

Mixed tenure extra care housing appears suitable for some people with dementia, but may prove less so as the condition becomes more severe.

Mixed tenure extra care housing projects are inherently more risky than 100% rented schemes, for developers and owners alike, given the vagaries of housing markets. This may be exacerbated by the scale of development needed to offset higher marketing and management costs.

Overall we conclude that the key to delivering a successful extra care housing project is to know the local housing market and to use this evidence to shape the objectives, focus and tenure mix of the project. Being clear about who the project is designed to cater for will make it much easier to identify the most suitable operational framework.

1. INTRODUCTION AND CONTEXT

Background

The Joint Improvement Team (JIT) is supporting West Lothian Council to develop projects that demonstrate innovative approaches to shifting the balance of care through housing based solutions. The West Lothian demonstrator centres on the potential development of a campus style housing development for older people, including people with dementia. An important policy issue is whether the proposed development could or should include provision for an element of housing for sale.

This issue is of wider potential policy interest. In response to population ageing and the associated increase in demand for care and health services, a succession of policy reports have signalled a need for fundamental change in the long-term provision and funding of the social care system for older people¹. Two policy aims run through this wider policy debate, which are the need to:

- Make services more responsive to consumer needs and demands and thus drive up the quality of care and widen the choice of services available.
- Develop innovative mixed funding solutions for social care provision because of the limits on the capacity of public finance to meet future requirements.

An important development with respect to meeting these policy aims has been the introduction of direct payments and individual budgets. This has given consumers the ability to make choices about the type of assistance they receive, when they receive it and from whom.

Another policy response has been extra care housing. This was initially developed by housing associations in response to demand from older tenants wishing to avoid the stress and upheaval of moving to residential care (Oldman, 2000). More recently, there has been a further shift towards the provision of private and mixed tenure extra care home developments that cater for older homeowners who do not wish to convert to renting.

West Lothian Council is aware that housing with care developments that incorporate units for sale – either on an outright or shared equity basis – may offer potential strategic advantages but may also involve additional complexity and risk. The Council has therefore identified a requirement for a more systematic picture of the issues that are likely to confront West Lothian and its partners in relation to the development and operation of mixed tenure as part of a campus model.

¹ See in particular Sutherland (1999) *With Respect to Old Age* and Wanless, D (2006) *Securing Good Care for Older People: Taking A Long-term View*

Aims of paper

To assist West Lothian consider this policy matter, this paper, considers a number of strategic and operational factors associated with mixed tenure extra care provision elsewhere in the UK, including developments for people with dementia.

It is not the purpose of this discussion paper, which was prepared during January and February 2010, to recommend any specific form of owner occupied or shared equity model be incorporated into the proposed housing with care development.

Instead section 2 considers broader matters surrounding extra care provision in a mixed tenure context and the strategic issues this suggests West Lothian will have to consider and reach a policy view on. This includes a summary review of the evidence base in regards to whether mixed tenure has any discernable positive impact on residents' quality of life or psychological well-being.

Section 3 of the paper explores issues surrounding the planning and management of mixed tenure extra care housing such as available evidence in relation to:

- The types of activity typically undertaken to establish the potential market for extra care housing for sale.
- Lessons regarding the marketing of mixed tenure extra care housing to prospective owners and their families, and other stakeholders.
- The ease (or otherwise) with which it has been possible to sell individual homes in extra care housing developments, any potential risks associated with being unable to sell-on units, and the way these risks have been managed.
- Issues surrounding the allocation of extra care housing and the criteria used to appraise housing, care and support needs and ability to pay.
- The configuration of arrears and evictions policies in relation to owners, including arrangements to 'move-on' owners in circumstances where an owner's care and support needs can no longer be met within the project.

Unless indicated otherwise, the term owners should be read as including those who have purchased through some form of shared equity. For ease of reference, we have also used the term 'landlord' to refer to the extra care-housing provider.

We hope this paper is helpful in highlighting the housing related issues that West Lothian Council will need to consider. However we would stress that it would be necessary for the Council to seek legal and financial advice about the forms of extra care housing equity products that could be pursued.

2. STRATEGIC CONSIDERATIONS

What is extra care housing?

Extra care housing is sometimes called ‘very sheltered housing’ or ‘assisted living’. It generally involves the provision of purpose-built or adapted self-contained accommodation and access to 24-hour care/support that enables individuals to continue to live independently in their own home whilst not leaving them unsupported or in danger.

The term covers a diverse range of built forms, including modernised sheltered housing, small purpose built developments and retirement villages. As the Department of Health’s Housing Learning and Improvement Network’s Extra Care Housing Toolkit (DOH 2006) observes, the term extra care housing covers a range of housing models intended to bridge the gap between living in mainstream housing with little or no support and living in a care home with little if no independence.

Riseborough and Fletcher (2003) have summarised the key ingredients of extra care housing which are illustrated in table 1 below.

Table 1: Key ingredients of extra care housing	
<p>Principles</p> <ul style="list-style-type: none"> Focus on individuals Rehabilitation Independence Residents have control (tenancy rights separate from care) Access to community activities Neighbourliness Community resource 	<p>Care and leisure</p> <ul style="list-style-type: none"> Flexible care Working with, not doing for residents 24 hour support Care team based in scheme Access to meals Domestic support Supporting leisure and social opportunities
<p>Design</p> <ul style="list-style-type: none"> Individual dwellings are seen as ‘home’ Design allows for a range of social activities Progressive privacy is built in for residents 	<p>Assessment and allocation</p> <ul style="list-style-type: none"> Joint assessment and allocation Balance of dependency levels Positive approach to mental health Step up and step down places Home for life
<p>Source: Riseborough and Fletcher, 2003</p>	

By mid 2008 there were at least 39,000 extra care units in England according to the Elderly Accommodation Council (EAC). Most developments comprise of 30 to 60 dwellings, but increasing numbers of extra care villages of 100 to 300 units are now being developed. Most extra care units are in the social rented sector but there has been a sharp upturn in other tenure options in recent years. In recent years, public funded new-build extra care developments in England have tended to involve mixed tenure developments incorporating a proportion (usually between 25% and 50%) of properties for sale on an outright and/or shared equity basis.

Demand for private or mixed tenure extra care

Increasing levels of wholly private sector and mixed tenure extra care housing have been driven by a range of factors, including a reported increase in demand from older homeowners. That said, consumer demand is not well evidenced. What is often used to 'demonstrate' the existence of this apparent demand is:

- The continuing growth in the numbers of older people, especially those over 85 years, and the accompanying growth in the proportion of older households that own their own home².
- The high demand for leasehold extra care housing units found in some of the first projects to offer shared ownership alongside renting.

Few studies consider housing market trends and the distribution of household income and wealth and relate these to potential demand for extra care within different tenures. The analysis of the market for extra care housing is discussed further in section 3.

In terms of resourcing demand for owner occupied extra care housing, the obvious route is a transfer of existing equity in an owner-occupiers house. Many existing or soon to be retired homeowners have made considerable equity gains in spite of the recent housing market downturn. That said, it is important not to overstate the potential role that housing wealth can play.

Owners have two main options for realising their housing equity. The first is to trade down in the market (including a move to renting) and the second is to use an equity release mechanism. Older homeowners are generally much more likely to consider trading down (Clery et al, 2007; Smith, 2004). Trading down to another owner occupied dwelling however, is only a realistic option for those that live in large or comparatively expensive properties³.

Locational disparities in house prices mean that the equity accumulated by homeowners is not evenly distributed. Thomas and Dorling (2004) demonstrate that homeowners have acquired housing equity at different rates across the country. In the 20 years to 2003 there was a sustained gradient in prices, with the most expensive in London and South East and the least expensive in the North of England and Scotland. Moreover, house price inflation has been much higher in London and other high house price areas. Even allowing for possible time lags in price inflation

2 In West Lothian 2 out of 3 households now own their home compared to just 13% in 1971. Rates of owner occupation are lower amongst households of pensionable but projections suggest that the proportion of owning households living in West Lothian and represented by someone aged 60 years or above could climb to around 70% by 2015.

3 Maxwell and Sodha (2006) observe that in many locations there are only small differences in the prices of two or three bedroom properties. Once the costs associated with moving are taken into account the authors argued relatively few households could release significant amount of equity by trading down.

and some changes in the mix of dwellings sold, their analysis highlights considerable geographical disparities in housing wealth⁴.

EAC statistics suggest extra care housing is more prevalent in expensive house price areas. In 2008, there was an estimated 5 extra care housing units for every 1,000 people in England aged 65 plus years. At the regional level, East of England, South East, West Midlands and London all had above average rates whilst the North East, North West, South West and Yorkshire & Humberside all had below average rates.

There are also higher concentrations of extra care in more affluent counties within a region. For example, in the East Midlands the rate varied from 1.4 in Derbyshire to 9.5 in Northamptonshire.

As far as we are aware there has been no assessment of the reasons for the concentration of extra care housing in particular parts of England but we suspect this pattern reflects a combination of factors such as:

- Possible shortages of care home provision.
- Local policy pressures to reduce the usage (and comparatively very high costs) of care home placements.
- The capacity to achieve additional units through section 106.
- The geographical area of operation of specific housing associations heavily involved in supplying housing with care and LCHO.

It also seems probable that demand is most evident in those areas where there are significant numbers of owners with high levels of equity and other assets that are willing and able to pay what in some projects can be high purchase prices and high service charges and fees.

Although there is an increasing policy focus on the provision of extra care housing as an alternative to care homes, a fair share of existing extra care housing for outright sale have been marketed as a lifestyle investment for owners in their 60s and 70s with low-level need and who can pay for their own care⁵.

4 The study team report that a poor family who bought into a lower cost place in London during the 1980s will have accumulated more housing wealth than a family who bought a home in Edinburgh and elsewhere in Scotland, because house prices have risen more modestly north of the Border.

5 In England, these projects tend to involve buying say a 99-year lease and paying a service charge to cover repairs and maintenance, on-site staff provision, an emergency alarm system and a minimum fixed level of domestic assistance. Service charges may also include meals and 'optional' additional care and support.

Overall the ‘big picture’ appears to be one of potential demand for extra care housing for sale being concentrated in more affluent areas. Reflected at the Edinburgh and Lothians housing market level, there are likely to be areas where demand could support such provision and areas where there would be relatively little demand. Therefore any serious attempt to assess demand for extra care for sale will need to pay close attention to underlying local housing market trends and conditions.

Types of equity models currently available

In England, most mixed tenure extra care housing has been developed by RSLs. These developments typically provide a mix of leasehold, rented and shared ownership provision. In the case of the latter, older households purchase a proportion of a property (50% to 75%) from the landlord and then pay a rent on the remaining share. Households are generally not given the right to staircase to 100%.

In Scotland leasehold would not be possible but it would be possible to provide shared ownership. It would also be possible for older homeowners to access a shared equity product such as the LIFT shared equity products offered by the Scottish Government. This would permit an older household to buy say a 60% to 80% equity share and get the balance through an interest free loan. These arrangements are discussed further in section 3.

Other models have been developed by JRF. One involves making a non-refundable lump sum payment which will ensure residence is guaranteed for life. This fee is typically designed to reflect a person’s age, health and the value of property they are going to occupy. Another involves paying a refundable fee equivalent to the market value of a property, which is repaid (either cash value or index linked) at the end of the lease.

Tenure mix and extra care housing

The promotion of equity-based extra care housing in national policy circles is generally seen as part of a wider agenda to build sustainable communities where homeowners and renters live alongside each other. This reflects the fact that much of current housing policy is based on the premise that mixed tenure may improve well-being and the quality of life of residents. The following paragraphs look at this matter in further detail⁶.

⁶ It is also worth noting that another policy rationale may simply be to widen consumer choice. Mountain and Bhuri (2006) suggest that the choices available to older owners seeking to move within the sector are limited. The Review of Sheltered Housing in Scotland also suggested that the large share of former owners living in social rented sheltered housing may have been due to a lack of suitable accommodation to purchase on the open market. (Croucher, et al 2007).

Tenure mix and well being

A number of studies have sought to assess whether extra care housing improves the well being and quality of life of individuals. The literature suggests various factors influence social well-being but tenure does not appear to figure highly.

Hanson and colleagues (2006) surveyed members of the Housing Learning and Improvement Network (Housing LIN) on the relative importance of 25 pre-identified features derived from a review of available literature. The findings, which are summarised in table 2, show mixed tenure is viewed by scheme managers as of low priority in achieving success in extra care.

Ranking	Extra Care Feature
1	Flexible care, responsive to tenants' fluctuating care needs
2	Self contained dwellings. Control of one's own front door
3	Living at home, not in a home. A 'homely' feel
4	Premises that are wheelchair accessible throughout
5	Lifts to upper floors so that the whole scheme is 'visitable'
6	24 hour support on site for those who need it
7	Flexible design to adapt to changing needs of tenants
8	Providing a culturally sensitive mode of service delivery
9	Smart and assistive technology for independent living
10	Rebuilding tenants' skills for independent living
11	On-site support staff who assist tenants with daily chores
12	Communal lounge to promote social activities
13	Scheme manager to co-ordinate care and support teams
14	Assisted bathrooms for use by frail tenants
15	Communal dining room where tenants can share meals
16	Activity room for use by tenants and local community
17	Well being facilities - hairdresser, gym, chiropody etc
18	Balanced community, that mixes abilities and types of tenure
19	Guest room available for tenants' friends and family to stay
20	Communal (commercial) kitchen to serve a fresh mid-day meal on site
21	Communal laundry room for the tenants' use
22	Activity coordinator to organise tenants' social activities
23	Consulting room for visiting health / care professionals
24	Lively locality - scheme located in a well-established neighbourhood
25	Day Centre incorporated in the scheme to boost social life

Several recent studies (Croucher et al, 2006, Vallyelly et al, 2006; Croucher et al, 2007; Evans and Means, 2007) have reviewed or conducted evaluations of various forms of extra care provision. Studies rarely use specific 'quality of life' tools to assess well being or quality of life. They have instead mostly relied on resident views and expressions of satisfaction. Available evidence must therefore be treated with some caution in light of this limitation. Looking across these studies:

- The combination of independence and security offered by such schemes is very attractive to older people and their families.
- Extra care housing for the most part generates high levels of resident satisfaction.
- Age segregation is not seen as a problem by older people that choose to live in extra care housing and many feel safer in an environment centred on the needs and preferences of older people.
- Residents greatly value the re-assurance of knowing there is 24-hour cover by onsite staff, including those not receiving regular assistance from care staff.
- Extra care enhances residents' own perceptions of their health and well-being and decreases their perceptions of unmet need⁷. This is often associated with support from staff to assist residents to regain skills and rebuild confidence and/or to assist residents' access health services.

Key factors associated with improved feelings on well-being include:

- The provision of good quality, person-centred, and flexible support and care packages, which increasingly includes some form of telecare provision.
- Effective management and partnership working.
- Family and social support and the ability of residents to maintain existing social networks and establish new ones.
- Opportunities for residents to participate in a range of activities.

By contrast, studies are silent on whether mixed tenure improves well being. This is not surprising. Mixed tenure alone is not sufficient to reduce isolation or ensure interaction between occupants.

On the other hand, mixed tenure could potentially have a beneficial effect to the extent that the presence of better-resourced residents increases consumer pressure to ensure high standards of service are maintained. However, studies have not explicitly tested whether a broader tenure and income mix does result in better management or higher standards of service. This key question therefore remains unanswered.

⁷ However, as Croucher et al (2007) observes, whether it leads to better outcomes than high standard care homes remains unclear.

Do older people want mixed tenure extra care?

A related issue is whether mixed tenure is popular with customers or indeed if tenure matters at all.

Croucher and colleagues (2007) found older homeowners can be willing to move to rented property for a range of reasons including a desire to secure a more manageable and/or accessible home, without the responsibilities of maintenance and repair. Likewise, evaluation of Berryhill Retirement Village in Stoke on Trent, which provides rented housing, found that former owners felt much happier and that their worries had diminished since entering extra care housing, especially with regard to maintaining their property and paying bills (Bernard, M. et al. 2004). The above findings are consistent with those from the evaluation of Stanton Lodge that residents did not have strong views regarding 'ownership' and that the form of the tenure was relatively unimportant to them (Jevons, 2008).

Evan and Means (2007) have explored how well a mixed tenure retirement village has been able to accommodate people with different care needs and from different backgrounds. Their study shows that creating a balanced community is not without its challenges: they found evidence that different neighbourhoods had developed that corresponded to the different types of housing which included very sheltered housing for rent, lease purchase apartments plus a care home incorporating facilities for short-term care and a specialist dementia service.

Croucher and colleagues (2007) and other local studies have also observed that extra care housing projects have sometimes been hindered by the development of a sense of 'us and them' between residents in different tenures, and/or residents with different levels of income and/or between residents with different level of disability⁸.

Most commentators suggest such tensions point to a need for the careful planning, allocation and management of mixed tenure extra care projects.

In terms of planning some (but not all) continue to argue all mixed tenure developments should be fully integrated with properties available to buy or rent next door to each other. On the other hand, looking at the population at large, there is evidence that house-buyers and renters often prefer to live in relatively homogeneous neighbourhoods.

There would therefore appear to be need for a more rigorous examination of the supposed community benefits of mixed tenure extra care housing. This should

⁸ The LIN (2008) briefing on mixed tenure ECH also acknowledges a disproportionate number of complaints that have been made to the ombudsman come from leaseholders – although it is unclear if these are extra care residents.

explore which hypothesised benefits of mixed tenure might be achieved and at what scale (i.e. the numbers of units necessary)⁹.

It may be that the supposed benefits of mixed economy extra care provision can be more easily achieved through placing greater emphasis on promoting separate rent and sale schemes whilst achieving a greater tenure mix at the school catchment, town or housing market level.

Other housing attributes matter

Although tenure may not necessarily matter for many older people, the quality, spaciousness and location of the accommodation they inhabit most certainly do. Focus groups and surveys of residents conducted by extra care landlords and independent researchers repeatedly highlight that decisions to buy or rent housing in specific projects are strongly influenced by:

- Location and in particular good access to health services, leisure and recreational amenities, reliable transport links and reasonable proximity to friends and family.
- Accessibility within the home, with walk-in showers seen as essential.
- Property type, with a strong preference for bungalows because of their perceived accessibility.
- Property size, with two bedrooms and spacious living and storage space increasingly considered a minimum requirement.

Where people have been found to have complaints about an extra care home, these usually centre on space standards and storage facilities. Research highlights that schemes where space standards are generous provide a significant 'pull' factor. As one older owner asserted:

"The problem is I'm keen [on] DIY and a model engineer as well, so I need accommodation for that, I've got a workshop, things like that, so a flat wouldn't suit me because I am still fit enough to want to do the things I do actively. It would be wrong to lose your activities simply because you went into accommodation that stopped you doing them. It's one of the things that tend to make people decide that they're going to give up because they can't continue their activities, their interests and activities, any longer. It's just so important."

(Older owner quoted in Croucher, 2008)

⁹ This issue is likely to be of significant interest to national as well as local policy makers.

Accommodation related costs of extra care housing

From a customer perspective, the costs of equity based extra care comprise of:

- Accommodation related costs, which include the 'rent' for shared ownership and other housing related service charges (for maintenance etc).
- Support and care charges.

It has proved difficult to get a clear picture of the range of accommodation charges currently made because this information is not readily accessible. In addition, accommodation related service charges do not always cover capital repair costs as these are sometimes levied along with legal fees at the end of a lease. The figures quoted in table 3 should therefore be considered illustrative. Nonetheless, it is clear that rent and/or a service charge differ widely between schemes.

Table 3: Examples of accommodation related charges (i.e. excluding care/support)
Rental charge for shared ownership: £1,500 - £2,500 per annum
Service charges: £2,000 - £6,000 (but some of this variation depends whether heating is included and in some instances the charge may include some meals provision).

Service charges can also vary within a project. For example, some projects charge different service charges for different types of property and for different tenures. This has often proved to be a source of friction between residents and between residents and providers.

One of the claimed benefits of extra care housing is that it allows homeowners to retain some capital. This is no doubt true and is an important marketing feature for extra care homes catering for older people with a variety of needs where those residents are likely to occupy their home for 5 or 10 years or more.

It is perhaps less obviously an advantage of extra care housing designed for very frail older people. In some of the more specialised extra care schemes residents often die or are required to move on to a more institutional setting within 2 to 3 years of taking up residence¹⁰. Once the costs associated with buying and selling a house are taken into account, it may be cheaper and simpler for many such people to rent.

An area that is of growing concern is cost shunting. This typically involves some proportion of support costs being absorbed into the rent charge (including rent payable on shared ownership¹¹) and thus transferred to social security funding. The

10 Vallely and colleagues (2006) report that people with dementia able to live independently within extra care housing for 2.13 years on average. Similar time frames have been reported for older people with complex needs.

11 Shared ownership has proved to be a popular option with providers of housing with care because some equity continues to be owned by the landlord while part owners can qualify for housing benefit if they have a low income and less than £16,000 in savings.

DWP has been contemplating further Housing Benefit reforms and the possibility of introducing something more akin to the Local Housing Allowance for social rented tenants for some time. This raises issues about whether the potential for cost shunting will remain a long-term option¹².

In December 2009 DWP published a consultation document highlighting a requirement for further housing benefit reform. It sets out a number of themes including supporting people into work, fairness, affordability and the need to ensure housing benefit represents value for money for the taxpayer. Much of the demand potential for extra care housing is likely to depend on DWP reform plans for social renting, which are not spelt out in the current consultative document.

There are also uncertainties about the future of attendance allowance, which both tenants and owners alike often use to pay support charges, in the wake of the publication of the Green Paper, Shaping the Future of Care Together (Department of Health, 2009).

People with dementia and extra care housing

The potential for extra care housing to accommodate people with dementia has been raised by many. This includes DOH (2006) and the Wanless Review (Poole 2006), both of which argue that some form of supported housing could replace care homes for a proportion of people with dementia.

Greenwood and Smith (1999) have observed that some people in housing with care will either develop dementia or already have mild dementia at the point of entry. More recent research from ongoing evaluation of the DOH's extra care housing funding initiative states that:

“30 per cent of those who moved into extra care had moderate or more severe levels of dependence, compared with two-thirds of those moving into a care home providing personal care. A very small proportion (4 per cent) that moved into extra care were severely mentally impaired, compared with 39 per cent of those moving into a care home providing personal care.” (Darton et al, 2007)¹³

12 Rent and service charges for ECH shared ownership units often exceed £100 per week. These charges are generally in excess of Local Housing Allowance levels for 1-bedroom dwellings throughout Scotland.

13 The Department of Health (DOH) Extra Care Housing Fund is supporting the expansion of extra care housing in England. The Department has commissioned the Personal Social Services Research Unit at the University of Kent, to evaluate 19 new-build extra care housing funded projects. The percentages quoted are therefore based on small numbers. The Institute of Public Care (2007) suggests that around a quarter of current extra care residents had dementia prior to entry.

Although extra care housing can support existing older people who develop dementia for a period, it is less certain that extra care housing can accommodate people with dementia over the full course of their illness. Various studies have shown, in almost all extra care housing projects considered, that some residents eventually had to be moved-on to a care or nursing home. Most usually this has been due to dementia related issues, although sometimes it has involved older people with other complex needs.

Move on to a more institutional setting tends to be influenced by factors such as:

- ‘Challenging behaviours’ and their adverse impact on staff and other residents.
- The existing numbers of high-dependency residents relative to the dependency mix that specific projects have been designed for, and the staff capacity and expertise available to them.
- The willingness and ability of funders to pay for increasing levels of care, or provide the necessary level of care directly.
- The availability of places in other facilities.

O’Malley and Croucher’s (2005) literature review of care housing and dementia also found that “integration is unpopular and problematic for non-demented residents”. This finding has been reinforced by a more recent review of extra care housing and dementia (Dutton, 2009)

On the other hand, dedicated extra care housing for older people with dementia may have a positive impact on health and social well-being. This typically consists of a dementia care unit located in a self-contained area of the extra care housing project or a dementia-specialist development where only people with dementia live. Research evidence remains scarce but there are indications that dedicated provision may be better able to¹⁴:

- Support people with dementia over the full course of their illness and shorten hospital in-patient stays for older people with dementia.
- Manage the spectrum of behaviours associated with dementia, not least because staff have appropriate specialist knowledge and skills.
- Offer a good quality of life to most residents who have dementia, including residents that are very old and/or have complex health needs (see Evans and Vallely 2007)

14 See for example Vallely and colleagues (2006) Institute of Public Care (2005)

It is beyond the remit of this study to consider the factors that are central to the successful delivery of dedicated housing with care provision for people with dementia. However, it is apparent that design features (such as signposting, the use of colour and colour contrast, the use of artwork and memorabilia) that assist people with dementia to move around a building are essential. Another essential feature is the use of various forms of assistive technology.

Research also suggests that for extra care housing to work, it is important for people with dementia to move to their new home whilst they retain the capacity to understand and agree to the move, and to forge relationships with other residents.

Strategic issues for West Lothian

The driving force behind and rationale for mixed tenure extra care housing

Overall the impression from England is that, whilst policy makers and some social landlords are committed to the principle of mixed tenure, most initiatives have resulted from financial practicalities. In effect the inclusion of some units for sale has been necessary in order to secure public grant funding and/or to reduce borrowing requirements.

For the most part, therefore, mixed tenure extra care has not been the result of strategic decision-making informed by comprehensive assessment of older consumer housing aspirations and preferences.

Are local housing markets conditions conducive to the development of mixed tenure extra care housing?

Mixed tenure extra care housing is high risk relative to rented provision, not least because it exposes landlords to market trends.

The Housing Learning and Improvement Network have pointed out that extra care housing and the retirement housing market were both early casualties of the housing market downturn. It is clear that some RSLs and other developers have experienced difficulties in selling properties intended to cross-subsidise rented units in a number of extra care housing developments.

Although older homeowners often own their home outright, their ability to sell largely depends on buyers who require mortgage finance. When the housing market is distressed it can be hard to find would-be buyers. Older homeowners may also defer selling their home if they believe house prices will begin to rise again in 2 to 3 years.

More generally, some RSLs and private developers have had trouble in re-selling properties in some extra care housing developments even in buoyant market

conditions. In instances where it has emerged that there is limited potential demand, some landlords have sought to try to market units to households who cannot really afford it or alternatively to lower eligibility criteria for units intended for sale. Neither option may be acceptable to local policy makers and elected members.

What scale of provision is likely to make mixed tenure worthwhile?

Mixed tenure extra care housing to cross-subsidise social rented provision or to reduce the level of borrowing required may sound appealing but there are specific costs associated with the provision of extra care for sale. These include the cost of marketing, additional management costs, additional costs of running different revenue systems, and the need to collect and make much more detailed information available on costs, especially those recouped through service charges.

A key consideration for West Lothian is whether the potential benefits of creating tenure mix are likely to be sufficient to justify the added cost and complexity of planning and managing mixed tenure developments.

Part of the answer to this question would appear to depend on the numbers of units for sale that could be realistically developed.

From looking at extra care home developments in England, we have formed the clear impression that the increase in the numbers of extra care housing projects comprising 50 or more units has been about ensuring sufficient economies of scale to warrant the time and resources required to develop and deliver mixed tenure schemes¹⁵.

What specific need does West Lothian wish to provide for?

A final point worth making is that the Council first and foremost must be clear about the types of needs that the proposed campus style provision is intended to meet. If housing with care is intended to support people with dementia-type illnesses or people with complex needs where there is a possibility of people moving on in a reasonably short period of time, then mixed tenure provision may not be a practical option.

¹⁵ Philip Mickelborough author of 'Extra-care Housing UK Market Report 2009 notes "We still come across local authorities who hope to run schemes of 10-20 units economicallybut the focus of private and social developers' attention is more on extra-care villages with up to 300 flats, where the range of services and facilities on offer for older people can be extensive" (Laing & Busson press release 28 July 2009).

3. OPERATIONAL CONSIDERATIONS

Introduction

As part of this study, West Lothian asked us to investigate a number of operational matters associated with mixed tenure extra care housing and to highlight any lessons that have emerged from the experiences of other organisations. These issues are discussed below.

Assessing the potential market for mixed tenure extra care housing

In terms of devising a strategy to address the housing and care related needs of older people and the potential role of mixed tenure for extra care housing it is useful to differentiate between:

- Market analysis: this is intended to inform strategy decisions about what the future accommodation and service configuration should look like.
- Marketing research: this seeks to test demand for a specific product/ service or to test how a product/service might be better aligned to consumer wants and demands.

The Extra Care Housing Toolkit (Housing LIN, 2008) recommends that any examination of the potential market for rented or owned extra care housing should form part of a wider assessment of the housing and care related needs of older people. The toolkit emphasises the need for population profiling and mapping service provision and suggests extra care housing strategies should be underpinned by analysis of:

- Current and projected numbers of older people split by age, gender, ethnicity and household type plus estimates of the numbers of older people likely to experience life-affecting physical conditions and/or dementia and other mental health problems and the proportions known to social work, housing or health.
- The range and quality of services available, including those delivered by the independent and private sector, anticipated future demand pressures and an assessment of whether the levels and types of services being delivered are achieving the outcomes current and prospective service users expect.
- The housing circumstances of older households, their housing aspirations and the housing related options older people may or may not find acceptable.

The toolkit also highlights the benefits of drawing on stakeholder perceptions. However, Trimmer's (2008) review of strategic planning for extra care suggests that engagement with private sector developers, social landlords and older people is

often poor and that there remains a need to improve the quality of strategic planning for older people.

Market analysis is more complex than guidance implies:

- The work involved in assembling the requisite data is considerable. There are often gaps in the evidence base and it can be challenging to find ways to present the collated data in a manner that is easy for policy makers and others to digest.
- Assessments of future numbers of older people with different forms of disability tend to rely on national prevalence rates which may not be reliable at local level and can be a source of dispute.
- Housing indicators (central heating, older people without car etc) recommended in guidance reflect data available from the Census and are of limited usefulness in pinpointing housing related need, especially when looked at in isolation¹⁶.
- Local authorities have often found it necessary to assess the potential market at a smaller spatial level such as markets towns and their hinterland.
- There is much diversity in people's health, economic and social circumstances as they age. The interplay of these factors and their influence on the needs and choices of older households are very difficult to tease out. Understandably, many have struggled to move from data description to analysis.

Faced with these challenges and time pressures, many have relied on broad assumptions and stylised facts rather than analysis to establish the required tenure mix of extra care housing¹⁷. However, some of these assumptions are debatable.

One pertinent example relates to the application of the LIN toolkit tenure mix flow chart (see page 31). This flow chart is intended to provide a starting point for

16 Housing LIN suggest that the Strategic Housing Market Assessments (the equivalent to Housing Need and Demand Assessments in Scotland) should be a vital information source, but these documents tend to contain little information on the housing related demands, needs and expectations of older people. In Scotland local authorities have asked the Centre for Housing Market Analysis for more comprehensive guidance on assessing the specific needs of older people and other equalities groups.

17 The Housing LIN (2009) review of Joint Strategic Needs Assessments (JSNA) in the South East Region reports that is not always apparent how the housing information presented had been used to identify priority groups for housing related services. A DOH report by Bennett and Sanderson (2009) notes that "a *general criticism levelled at the first round of JSNAs has been that the process has sometimes become the end in itself. This means that once a JSNA has been produced (often a substantial document, dense with quantitative data) it has been placed on a shelf where it is destined to remain...*" (page 13). We also observed that some survey based local studies did not have information on prices, incomes or equity required to assess the ability of 'older households to pay for equity based extra care housing.

assessing the potential tenure mix. It suggests that older households that rent will continue to rent, owners that bought on the open market will prefer outright sale and RTB owners may require shared ownership or some other form of shared equity product. The Toolkit highlights that the flow chart “*should not be used exclusively to determine tenure type and mix of a scheme*”. Nonetheless our impression is that the tenure profile of households represented by someone aged 50+ or 60+ years is often assumed a desirable target that extra care housing provision should emulate.

Testing the potential local market for mixed tenure extra care housing

It is beyond the scope of this project to set out what evidence would assist West Lothian Council obtain a clear strategic view of the future housing and support needs of older people and thus inform decisions regarding future service configuration in respect of older people.

In terms of assessing the potential market for mixed tenure extra care housing however, our review of English experience suggests that it would be beneficial to:

- Appraise local housing market conditions.
- Explore the outcomes customers want and are willing to pay for.

Local housing market conditions

An important consideration is where demand for extra care housing for sale is likely to come from. Most households, including homeowners, move within 5 to 10 miles from their former home. Assuming this holds true for West Lothian, this suggests analysis of local market conditions should focus on Bathgate and the surrounding settlements.

We believe that a comparison of the numbers of older homeowners in different localities with the distribution of local houses prices and incomes in the wider Bathgate area would provide some insight into potential demand for equity based extra care housing.

One key task would be to assess if local house prices compare favourably with the estimated capital cost of developing an extra care housing unit¹⁸ and whether older homeowners living in properties at the lower, middle and upper end of the housing market could potentially buy into extra care housing with capital to spare or otherwise.

Sasines house price data is supplied to local authorities by the Scottish Government. It can be broken down to small area level and should provide the foundation for this analysis. However, this data does not record property attributes. Low sale volumes in some localities may also make it difficult to appraise local house price trends. One

¹⁸ Assuming estimated extra care housing unit costs are not available, comparison with the capital cost or valuation of recently newly constructed 2-bedroom new build RSL products may be appropriate.

way to address this limitation may be to ask the District Valuer to prepare evidence on local prices for different property types. Of particular interest are likely to be dwellings sold through RTB that accommodate reasonably high numbers of older households in the Bathgate area and tend to be priced at the lower end of the market.

Ward level data on the numbers of older households in receipt of the pension credit guarantee and savings credit is published on the DWP website. Local authorities also have access to CACI Paycheck income distribution data. Overlaying both datasets with outputs from the price analysis could offer some insight into:

- The ability of older homeowners to afford the ongoing accommodation related costs associated with equity based extra care housing.
- The numbers at risk of losing state benefits as a result of 'trading- down'.

Customer research

Although better understanding of local housing market conditions can provide some insight into whether there may be reasonable numbers of older homeowners in a position to purchase equity based extra care housing products, it is more difficult to predict actual take-up.

Customer studies conducted by or on behalf of English local authorities reinforce the academic findings reported in section 1 that some older homeowners would prefer to rent¹⁹.

Such studies also confirm that few older households have knowledge of extra care housing and therefore find it difficult to offer meaningful views. To seek to overcome this dilemma, some local authorities have undertaken research to understand better the factors that influence older people's decision-making process.

For example, Southend Borough Council has applied the focus group toolkit developed by the Institute of Public Care (IPC). This is based around a series of 'scenario situations' to which participants are asked to describe what resources (financial, family, emotional) they may have to manage the situation and what problems they believe they may have difficulty coping with or resolving²⁰. Outputs from the focus group exercises are then analysed to try to deduce what types of provision may assist older people remain within the community.

Although the IPC toolkit mainly centres on support and care issues, it could be adapted to explore older people's tenure preferences, their attitudes to housing

¹⁹ See for example Peter Fletcher Associates Ltd (2007), SP Solutions (2008) and Coventry Older People's Lifestyles Survey.

²⁰ A detailed script for undertaking these focus groups can be found in Anticipating Future Needs Toolkit: <http://ipc.brookes.ac.uk/documents/afntoolkit.pdf>

(including size and location), their attitudes to inheritance and other factors that may influence their willingness to buy into the extra care housing concept.

It would also be helpful to seek local RSLs, developers and estate agents impressions on local market conditions and the property attributes that older households are looking for. As noted in section 1, extra care housing products, especially small apartments and flats in poor locations can prove hard to sell, even in buoyant markets.

West Lothian could also review quantitative and qualitative evidence collected (including housing and social work field staff knowledge) regards the reasons why older households from the wider Bathgate area have entered or left care home or sheltered housing provision.

Marketing mixed tenure extra care housing

An important lesson is the need to take a broad view of marketing and to pursue a range of activities to 'sell' the benefits of extra care housing to different audiences such as:

- Prospective residents and their carers.
- Politicians, the planning department and other local authority departments.
- External stakeholders.
- The wider community, especially those living in the adjacent area.

Essentials of effective marketing

Available evidence suggests that to market extra care housing, and in particular equity based products successfully, it is important to ensure:

- Key partners have a clear and agreed understanding of the profile (age range, dependency range etc) of older households that the project will cater for.
- The lead organisation is known to and trusted by older households.
- Arrangements for the provision of support and care (including the provider) and the level and type of care and support to be provided is known are clearly communicated.
- Local MPs, MSPs and councillors are kept apprised about the project and feel confident answering queries from members of the public.
- Written material addresses questions older people often ask, including those set out in table 4. It should also be published in a number of languages and

made available at places where older people meet up (including health centres, libraries and community halls).

Table 4: Questions older prospective customers often ask
Housing and location What size are the dwellings? Is there somewhere to park my car? How much storage space is there? Is there a walk in shower? What type of fuel and heating system is there? Are the windows double-glazed? Is it suitable for wheelchair users? Is there space for hoists and other special equipment? What other design features are available to allow me to live independently? Can I take my pet? What is the location like? Is it close to shops, other facilities and public transport?
Care and support What care and support services are provided directly and by other agencies? Is there 24-hour cover? What sorts of tasks will the staff do or not do? What training or expertise does staff have? What facilities are available? Are other facilities open to the wider community?
Costs and management What's the legal arrangement for buyers? Are there any special clauses that could terminate the lease I need to be aware of? Who is responsible for repairs, maintenance and improvements? How much is the accommodation service charge and how is it worked out? How much does care and support cost? What help is available to pay costs? Can I choose to buy some services rather than all of them? Who can help if there is a problem?
Adapted from Riseborough and Fletcher (2008)

- Local branches of representative bodies such as Age Concern and agencies that work with older people such as Care and Repair understand the project and are willing to discuss the project with clients.
- Regular face-to-face communication is maintained, for instance through home visits, surgery events and roadshows with older people and their carers throughout the planning and construction process.
- Prospective owners understand and accept that they would not be subsidising tenants and vice versa.
- The press and other forms of media receive regular updates.

In terms of promotional material, the key lesson is to produce well designed, informative and easy to understand documents and web downloads that explain:

- The objectives and ethos of the extra care housing project, the type of support and care available, and what proportion (if any) residents may be very frail or have modest to severe levels of dementia.
- The benefits of the extra care housing, which King and Mills (2005) very usefully suggest is security. They define a number of dimensions to security which include financial security (no unexpected bills) physical security (reduced fear of crime, warm housing etc) environment security (can go out, no barriers) personal (reduced risk of accident etc) better mental health (not isolated).
- All legal, tax and registration costs (including the sellers' survey), that a household will have to pay for in terms of selling their present home and purchasing extra care housing equity-based product.
- All ongoing costs that an owner will have to pay, including information about household bills (such as fuel), council tax, service charges and other fees.
- The frequency with which service charges are reviewed should be spelt out.

It is important to ensure promotional photos provide a reasonable approximation of the sorts of older households the project is seeking to attract. Photos of retired stockbrokers and senior civil servants sipping drinks beside a lake full of yachts are unlikely to help sell extra care housing in Bathgate.

Draft material should also be tested with older people, professionals (such as nurses, housing officers, community officers etc) and carers to ensure the material is comprehensive and does not create misleading or unrealistic expectations. Liaison with communications and trading standards officers may also help to improve the layout of promotional material and to ensure it complies with statutory requirements.

Communication with elected members and other local authority departments

There is a widespread perception that it may be difficult to secure elected member support for the funding of an extra care housing project. It can be challenging to get elected members on housing committees to look beyond regeneration issues and the need to boost the supply of 'general needs' affordable housing. In an attempt to address this, council officers have:

- Produced regular briefing papers and seminars to allow elected members.

- Held workshops to present and review a variety of extra care housing projects in order to give elected members and opportunity to discuss and influence thinking on the kind of model that should be developed locally.
- Organised visits to existing extra care housing developments to view the concept at first hand.

Where extra care housing is not a well-known concept, regular communication with key departments, including finance and planning are considered vital.

A recurrent source of frustration for extra care landlords and residents alike is car-parking provision. Feedback confirms that it is important to ensure planners did not look to minimise car parking spaces and appreciate that for some residents' public transport is not be a practical option.

An issue that emerged during the preparation of this paper concerns the designation of extra care housing. Feedback suggests that it is important to hold discussions with planners at an early stage to consider whether the extra care housing project will be judged by planners to be a residential development or if not will a change of use classification will be required.

Marketing in difficult housing market conditions

As noted in section 2, extra care landlords have not always found willing buyers. The ease (or otherwise) with which it has been possible sell individual extra care units tends to be influenced by various factors but:

- Selling the right product in the right location at the right price is vital and should be a central focus of any feasibility studies, site appraisals and market testing.
- Working closely with older households on detailed design elements often improves the attractiveness of the product for prospective owners and renters alike. For example, older people tend to prefer gas hobs to electric hobs and gas fires to electric fires.
- Most providers now avoid siting specialist care units in a highly visible or prominent position.
- Securing feedback from site visitors is increasingly used to adjust marketing details or even the price if necessary.
- Some landlords now allow owners to make a down payment and pay the rest of the price within 1 to 2 years (or when they have sold their house). Others

allow prospective owners that have been unable to sell their home to rent their extra care unit for a period of 1 to 2 years.

There have been suggestions that inadequate marketing budgets may contribute to problems selling extra care equity products. Certainly, there are vast differences in the marketing budgets set by different organisations, even allowing for the likelihood that the range of activities funded from the marketing budget varies between organisations. Anchor Trust HA, for example, one of the biggest extra care landlords, had a marketing budget in excess of £2,000 per dwelling for a recent large-scale village style development whereas some landlords allow less than £500 per dwelling.

On the other hand, large marketing budgets may be more important for large-scale projects that need to attract affluent buyers from across the region. For instance, more extensive communication and advertising may be necessary to boost site visits from older people living some distance away. For small local based extra care housing projects, word of mouth communication may be a more cost effective option.

Allocations in a mixed tenure extra care home setting

Mixed tenure extra care housing projects tend to adopt a single assessment and allocation process for tenants and homeowners, although homeowners are occasionally required to satisfy additional 'financial' criteria.

Consistent with the absence of an extra care housing blueprint, eligibility criteria and allocation arrangements vary from project to project. Nonetheless, some common features are apparent.

Housing and care eligibility criteria

Extra care housing projects often operate an initial screening exercise that is designed to:

- Check that an applicant is at least 65 years or some other specified age, although sometimes an element of discretion is permitted.
- Assess whether the applicant has a housing related need. In practice, this means those seeking extra care housing must be on the housing register and be awarded 'needs points', in the main medical points. It is common for social landlords to carry out a home visit to assess an applicant's suitability from a housing needs perspective.
- Ensure that a community care assessment (akin to the single shared assessment in Scotland) is carried out. For extra care housing to be considered a suitable option, applicants must typically be assessed to need minimum levels of support and care. Projects intended to provide an

Some allocation policies also require an applicant to be in receipt of home care or in receipt of attendance allowance to be considered eligible for consideration.

On completion of the screening exercise, it is common for the extra care project manager (or their representative) and a social worker to visit an applicant. This is to ensure that the applicant's housing and care needs can be met in the project, to ensure that the applicant wants to move to extra care housing and to ensure the applicant has a positive attitude towards retaining or regaining their independence.

Allocation panel

Allocations to local authority and RSL managed extra care housing projects tend to be managed by an allocations panel involving housing, social work and health representatives plus the project manager. Their role usually involves:

- Ensuring appropriate action is taken to ensure information held for each applicant remains accurate and up-to-date.
- Deciding which applicant's from the proposed shortlist of applicants should be offered a vacancy (tenancy and/or property for sale) and to draw up a reserve list in case offers are refused or vacancies arise.
- Balancing the competing priorities of different partners. For example, housing managers may be concerned to fill voids as soon as possible while care managers may want to delay allocation to ensure that a homeowner has time to sell and vacate their home.
- Using discretionary powers to deal with complex cases such as instances where the applicant wishes to live with a partner or son/daughter in the extra care housing but the other person does not meet the eligibility criteria.
- Ensuring that decisions made by the allocations panel meetings are recorded and held on file in case there is an appeal or complaint.

Extra care house purchaser criteria

In addition to assessing the housing and care needs of applicants, some landlords undertake financial assessments to seek to ensure that prospective purchasers:

- Have the necessary assets or funds available to purchase the dwelling (or the minimum equity share) to cover all the associated legal and other fees, and thereafter to pay the applicable charges for the accommodation, which include rent, service charges and care costs.
- Understand the potential advantages and disadvantages of purchasing into the extra care project and have secured independent legal advice.

Most financial assessments appear to be based around the financial tests applied to households seeking to purchase 'general needs' shared equity products and state benefits checks. However some projects go beyond this and ensure older applicants meet with an independent financial advisor to receive impartial advice on how a move to extra care housing would affect their budget. The costs of the financial assessment are not usually passed onto the applicant.

Exclusion clauses

Extra care housing allocation policies frequently provide some indication of individuals that will not be considered eligible for extra care housing. These tend to focus on care related as opposed to housing related matters and tend to be specified in quite generalised terms such as:

- A level of physical or mental frailty which is likely to cause serious disruption or risk of violence to other residents or staff.
- A level of physical or mental frailty exceeding that which can be provided by the project or community nursing services.

It is also worth noting that the development of an extra care housing project has required some social landlords to adjust their allocation policies to:

- Permit older households to be offered 2 bedroom as well as 1 bedroom dwellings.
- Recognise 'non medical' related housing need, For example, some allocation policies have been amended to awarded under-occupying points to older households in all tenures and not just existing tenants of the social landlord. These points are usually awarded if it is applicant is having difficulty maintaining or heating their under-occupied property.

Contractual matters, including resales and accommodation related fees

A central feature of extra care housing is the separation of housing and care provision. In England it is common for older homeowners and tenants to have two contracts – one with the landlord in respect of accommodation and housing related

services and the other with social work (or other care provider) in respect of the provision of personal care and domiciliary support.

From the landlords' perspective, the contract entered into with residents provides the foundation for how the project will operate. This is particularly true in respect of owners because the contract provides the main legal basis for handling the sale and resale of property, for setting service charges, for recovering arrears and for terminating a resident's occupancy. Drafting the proposed housing contract therefore requires careful consideration of how the whole service will operate²¹.

It has proved difficult to establish good practice in relation to the content and effectiveness of the housing related contracts in respect of owners. Many mixed tenure extra care housing projects have only be in operation for a short time and have yet to develop a wealth of expertise in handling complex cases involving homeowners. Differences between English and Scottish law also mean that some practices in England may not be readily replicated in Scotland.

Although we cannot provide legal advice, one of the lessons from England is that prior to handing matters over to solicitors it is sensible for all partners to discuss and establish a clear statement of the objectives of the extra care housing project and the nature of the relationship that should be expressed in the contract with tenants and owners. It is therefore hoped that the following paragraphs will be helpful in identifying some of the issues such discussions should consider.

Contractual arrangement with owners

Shared ownership occupancy rights in Scotland

Shared ownership is subject to the Land Tenure Reform (Scotland) Act 1974 which prohibits the use of a long lease, which is defined as one in excess of 20 years for residential properties. Shared ownership purchasers are therefore granted a right to occupy and sign a 19 or 20 year occupancy agreement. From the viewpoint of managing extra care housing provision, it is important to be aware that:

- The occupancy agreement should provide a clear statement of the rights and duties of the landlord and the 'owner', including who is responsible for looking after and insuring different parts of the building.
- The occupancy agreement should set out conditions that require the 'owner' to reimburse the landlord for expenditure through regular fees and, if considered appropriate, provision to charge interest in respect of late payments.

²¹ Tenants would usually have a Scottish Secure Tenancy and therefore have additional statutory rights and in particular are subject to the tenancy provisions of the Housing (Scotland) Act 2001

- The occupancy agreement should make clear that a breach of the terms of the agreement would allow the landlord to seek recovery and possession of the property through the Courts.
- If a sole occupier dies, their beneficiary would inherit the owner's share of the property, but not the right to live in it. Thus the landlord could purchase the remainder of the property or agree to enter with the Executor in a joint sale of the property or allow them to sell their share on the Market.
- It is customary for RSLs to state they will renew occupancy agreements after 19 or 20 years, but we believe there is no legal obligation to do so²².
- Prior to renewing the occupancy agreement, the owner would be required to take independent legal advice and thus incur further legal costs.
- The landlord would also incur legal costs as a consequence of renewing the occupancy agreement, although it is permissible to require the owner to pay these costs as a condition of entering into a new agreement.
- If the occupancy agreement expired or the owner refused to sign a new agreement, the landlord would have no right to enforce any of the provisions of the occupancy agreement, including the collection of fees. The landlord would therefore have to apply to the courts to evict the owner and to secure the rights to sell the whole property.

Other shared equity products and minute of agreement

There are two further equity share products operating in Scotland:

- The LIFT shared equity scheme, which is administered by the Scottish Government, which includes provision for Scottish Ministers to retain a 20 per cent equity stake in the property through retention of a 'golden share'.
- Local authority discounted sales, which usually require a purchaser to pay between 65% and 90% of the full market value to the developer but allows the local authority to retain an interest (or financial stake) in the property through a standard security within the title deeds.

Legal arrangements differ, but both require the retained equity stake in the property to be repaid when the dwelling is resold. In addition:

- Both options permit the owner to have full legal title to the property and do not require the owner to make an occupancy payment.

²² Unless the landlord holds a 'golden share' it would also be possible for the owner to purchase the remaining RSL portion or for the RSL to purchase the owners portion of the property.

- Under the LIFT scheme, purchasers must agree and sign a Minute of Agreement with Scottish Ministers. We understand this is a legally enforceable document and is registered with the Keeper of Registers and held as a public record in the Scottish Record Office. We are not aware if similar arrangements have been adopted by local authorities but believe it would be possible to do so.
- The Minute of Agreement can include similar provisions regarding the rights and duties of the grant recipient, the payment of fees and insurance, the right for the grant provider or their nominees to buy the property of resale etc²³.
- Breach of the terms set out in the Minute of Agreement would allow the 'grant provider' to seek recovery of possession of the property through the Courts.
- We believe the 20-year rule also applies to shared equity products. Hence the grant receipt would be required to purchase the remaining share or agree a 'substitute' security with the grant provider in the nineteenth year.

The 20-year rule means that both equity products would place additional legal and financial burdens on residents of extra care housing that had owned their property for over 19 years. There may prove challenging, given that this group of owners may be in their late 80s or older and may not have the resources or capacity to enter into such arrangements.

Asking this group of owners to pay the costs of the landlord or grant recipient in setting up the revised agreement, which is the practice adopted by the Scottish Government in respect of LIFT, may also prove deeply unpopular. The Council may also wish to seek legal opinion on whether such provision could be contested under human rights legislation or equalities legislation.

The Government's standard Stamp Duty Land Tax (SDLT) rules apply to be shared ownership and shared equity sales. Any SDLT is therefore payable by the owner at the time of purchase on the full open-market price of the dwelling at the point of sale.

Sale and resale arrangements

In broad terms there are three options:²⁴

23 The LIFT grant explicitly requires the grant recipient to be responsible for the valuation and legal costs on purchase; the insurance of the property; to be responsible for all maintenance, repair and insurance costs. A grant recipient is also prohibited from letting or sub-let the property without the consent of the

24 Another option is co-ownership housing. This involves co-owners buying shares to live in a dwelling and making regular payments towards the capital/ interest costs and management costs. Co-owners receive a sum related to the increase in the collective value of the stock on vacating their home subject to a minimum residence period. Several co-ownership schemes operated in Scotland but these largely disappeared following the introduction of Right To Buy. While households live in the accommodation they make payments of 'rent' but this is not eligible for HB.

- Restricted Sales - A restricted sale or resale involves the sale being restricted on the basis of age and the need for care services. It is worth noting that in response to the downturn in the market some landlords have adopted a more flexible definition of 'care needs' (see McCarthy, 2009).
- Unrestricted sales – This usually involves sales being restricted by age but not by care needs. In some instances the landlord or the local authority is given the option to nominate a purchaser before the property is placed on the market.
- Re-purchase sales - This arrangement involves the landlord purchasing back the dwelling from at the same price (or some other pre-specified rate).²⁵

Private sector extra care providers' lenders and solicitors are reported to dislike re-purchase leases. There has been speculation that 'repurchase leases' result in higher legal costs for the purchaser, but we have found no evidence to support this. McCarthy (2009) also note that surrender conditions require careful wording if the landlord does not wish to assume responsibility for void service charges, council tax and utility bills for properties from the surrender date to the completion of the resale.

Social landlords tend to be more favourably disposed towards re-purchase leases. Depending on nomination and funding arrangements, this option allows the landlord to select a new resident of their choice and to change the properties' tenure to rent, shared ownership or leasehold to reflect the preferences of the new resident.

Hence a potential 'political' benefit of a re-purchasing arrangement is that it would be seen to ensure that extra care housing provision was open to all older people whose needs for the service can be demonstrated regardless of ability to pay. On the other hand, it would be difficult to operate a re-purchasing arrangement if the capital receipts for the sale of dwellings were required to cross-subsidise other elements of the extra care housing project.

Another potential benefit of re-purchasing arrangements is that it may make it easier to balance the need to ensure extra care housing units are allocated to those assessed in need (against agreed criteria) and at the same time minimise the risk that units for are left unoccupied for extended periods of time.

Although it is potentially cheaper for the landlord to effect a direct sale between the existing owner and a nominated purchaser that meets the eligibility criteria, it can be difficult to find and nominate a buyer that is able to conclude missives within 3 months of the seller informing the extra care landlord of their intention to sell. In

²⁵ For example, the Joseph Rowntree Housing Trust project in Harfields will purchase back the property at the prevailing market value and any re-sale surplus is shared on a 60-40 basis (60% retained by the Trust). However, in the event of a fall in the sales value older people are guaranteed purchase price.

cases where the seller has died or moved to alternative accommodation this can lead to units lying empty for a considerable period.

West Lothian should seek legal advice but we believe a re-purchase option is possible in Scotland. In May 2009 the Scottish Government issued guidance which permitted RSLs to re-purchase a shared ownership dwelling for the explicit purpose of renting rather than resale so long as this is consistent with the LHS and does not require further grant.

Housing related services and associated fees

It is vital that the Minute of Agreement or occupancy agreement sets out the services to be provided as part of the housing service and that associated service charges will be passed on to an owner. Failure to do so would pose financial risks for the landlord.

As noted earlier, extra care residents usually sign a separate contract for the provision of care and support. The tenure mix of an extra care housing project does not have a direct impact on the cost of providing care and support services or the level of service required.

Extra Care Housing Guidance (2009) issued by the Scottish Government's Joint Improvement Team confirms that any personal care and nursing costs should be covered by clients' eligibility for Free Personal and Nursing Care. Likewise, other domestic care and housing support would be means tested and if necessary, paid for from the residents' pension, other income and any allowances related to a disability. We would therefore assume that charges for support would be payable by residents in receipt of such services subject to West Lothian's means testing policy.

There are wider issues surrounding the configuration and contracting of support and care services that may need to be shaped by the proposed tenure mix, particularly if it is expected that older homeowners will in the main be self-financing. However, as such matters are beyond the remit of this project, the following paragraphs therefore focus on accommodation related costs.

Service charges

Table 5 illustrates the range of accommodation related services for which a charge is typically made. Another element that we have seen included as a service charge relates to the maintenance of roads and payments that have not been adopted by the local authority.

Good practice suggests that the landlord should maintain a set of accounts detailing costs and incomes flows for each service charge because owners have a right to scrutinise this information. In practice it is often difficult to disentangle and

disaggregate the revenue costs and income flows of services at project level let alone by tenure.

Table 5: Typical accommodation related service charges
Management fee to cover a proportion of costs associated with housing management staff, on-site office and a variety of management activities such as production of audited accounts.
Provision for redecoration and renewal of items in communal areas (furniture, carpets and other items in the lounge, corridors etc)
Supply and servicing of equipment such as fire alarm and emergency alarm call, launderette and other communal facilities
Cleaning, lighting and heating of communal areas (entrances, corridors, laundry and guest room etc)
Lift maintenance, garden maintenance and window cleaning
Provision of handy person service (if applicable)
Buildings insurance (and occasionally contents insurance)
Annual gas and portable electrical appliance checks
<i>Note: this list is not exclusive</i>

This problem is not unique to extra care housing. In 2009 the Office for Fair Trading (OFT) called on the Scottish Government to take steps to require all residential property managers to provide written details of the services they provide, the relevant delivery standards and a breakdown of costs.

Tenants and shared ownership owners that require assistance with service charge costs can claim housing benefit. Shared equity or outright owners may be able to claim a top-up to their pension credit for some service charges. To make a claim, an owner needs a detailed statement of the service charges that they are required to pay. The lack of good records may be one reason why owners often appear to struggle to secure financial assistance towards service charges through the pension credit system.

Some housing associations, such as Saxon Weald HA, operate shared ownership projects whereby households can purchase a 75% share of the property's market value but do not pay rent on the remaining un-purchased share. We understand this reflects a desire to ensure projects remain financially viable for lower -income older households that might otherwise not be eligible for Housing Benefit. Assuming the capital costs of any future West Lothian extra care housing project were funded directly by the Council, a similar option might be possible locally.

Property maintenance

One issue that can prove controversial is the funding of property maintenance. There are two main approaches to funding property maintenance. The first is to require owners to pay into a sinking fund through monthly payments as part of the service charge. The second is to require owners to pay a lump sum when the property is sold according to a formula set out in the occupancy agreement or Minute of Agreement.

For extra care housing equity purchased units the latter option may be preferable because of the difficulties lower income owners are likely to face paying a monthly payment. The downside is that this may require the landlord to tie up resources that it might wish to use for other purposes.

Looking more broadly, one aspect of the design of extra care housing that may require careful consideration is the provision of community facilities. In England larger projects often provide community facilities but such resources can be underused. This has proved to be a source of tension with self-funding residents in instances where they have been required to contribute to the upkeep of such facilities.

Terminating a contract and move on arrangements

Although extra care housing is promoted as a home for life, research evidence confirms that a proportion of residents do in fact move on to more institutional settings.

Contracts in England often include clauses that are designed to allow the landlord to ask an owner to leave if they are unable to live independently with the services on offer from the provider or other agencies. King and Mills (2005) also report that some landlords have sought to include 'rule of behaviour' or 'sanity' clauses to permit them to terminate a lease where a resident presents very challenging behaviour and presents a threat to other residents or staff.

Following the introduction of human rights legislation it is not clear that such clauses are enforceable and this is an issue where legal advice is vital. It is not known how frequently such clauses are evoked but most RSL and local authority landlords prefer to avoid legal proceedings wherever possible.

Extra care housing projects usually have procedures that set out the circumstances when residents would be required to move-on. These documents do not always make clear who is responsible for securing suitable move-on accommodation but extra care housing managers generally work with the allocation panel and members of the older person's family to review the levels of care required and to review and secure move-on provision.

As an additional precaution, some extra care housing managers hold discussions with prospective owners to explain what would happen if their needs could no longer be met by the project and there was a requirement to secure move-on accommodation. This is to ensure that if such a scenario does arise there is a record confirming that the older person understood and accepted these arrangements before signing the lease.

None payment of charges and fees

Aside from the instances where the owner is assessed to require more care than the project can provide there is also the issue of non-payment of accommodation related costs and support/care costs.

Some landlords include conditions in the contract that permits the landlord or lead agency to charge interest at some specified rate (such as the base bank rate or some percentage above this rate). We are not certain how frequently or otherwise such conditions are applied.

RSLs generally have procedures that require all vulnerable residents, irrespective of tenure, to be referred to Social Work before any court action is taken.

More generally, it is usual practice to hold discussions with the allocation panel members and other key care staff prior to reaching a decision to seek repossession in respect of dwellings occupied by tenants or owners without. Nonetheless, given the vulnerability of extra care housing residents, we have been surprised by the apparent lack of guidance for staff on the process to follow when arrears begin to accumulate.

If previous repayment arrangements have failed, there is an option to pursue service charge arrears through the Sheriff Court small claims procedure rather than seek repossession. Whether such action would achieve much is a moot point.

Sequestration or bankruptcy

Sequestration (still often referred to as bankruptcy) is the legal term for the process whereby an individual's property is taken from him or her to meet debts. If sequestrated, an owner would be required to sell their share in the property and any sums paid to the creditors. We are not aware of any specific instances of sequestration but it is important to recognise that this could occur if an individual builds up high levels of personal debt with several creditors.

It would therefore be important to take legal advice to ensure the Occupancy Agreement or Minute of Agreement was drafted to ensure the landlord had the right to terminate the agreement if such a circumstance arose.

Likewise it would be beneficial to take legal advice on whether the Council would have a duty of care for vulnerable individual in such circumstances.

Other matters

Finally, we would note that the handful of English local authorities that have opted to develop mixed tenure extra care housing rather than invite an RSL to undertake such a development have often found that it necessary to engage external advisors on technical, legal and financial matters.

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Appendix 2: Statistical supplement

West Lothian Resale Price Quartiles					
Year	No	Quartiles			
		10	LQ	Median	UQ
2002	2887	£38,000	£45,500	£59,500	£86,000
2003	3052	£44,965	£56,000	£74,000	£110,000
2004	2674	£53,775	£68,000	£88,000	£131,000
2005	3169	£60,000	£75,000	£93,500	£139,000
2006	3578	£72,000	£85,000	£105,500	£155,343
2007	3495	£83,000	£98,000	£120,010	£170,000
2008	2192	£85,000	£100,114	£123,000	£170,000
Calendar Year excluding properties priced above £1 million and below £20,000					