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Department of Health,
Richmond House,
79 Whitehall,
London,
SW1A 2NS

**Associated Retirement
Community Operators Limited**
25 Bedford Street, London WC2E 9ES

Telephone: 020 3697 1204
Email: info@arcouk.org
Internet: www.arcouk.org

- via email: careactconsultation@dh.gsi.gov.uk

Re: Response to Consultation on Care Act Regulations and Guidance

Dear Sir/ Madam,

With this letter, ARCO (the Associated Retirement Community Operators) is responding to the Consultation on the draft regulations and guidance of the Care Act. We have limited the scope of our response to just those chapters that make explicit reference to housing, or to those chapters which we believe would benefit from a greater emphasis on housing.

In **Summary**, our response is as follows:

- We welcome that housing has been given a more prominent role in the Care Act and its composite draft guidance
- We are suggesting a number of amendments which mainly follow one of the following two themes:
 1. A number of chapters in the guidance could benefit from providing more explicit reference to the role of housing (and especially housing for older people), including examples providing practical guidance
 2. On a number of occasions, we are strongly suggesting that the role of housing should be emphasized as a 'must', rather than a 'should', thus ensuring that the inclusion of housing in the care bill is not just optional or good practice.

About ARCO and housing-with-care

Founded in 2012, ARCO (the Associated Retirement Community Operators) is the main trade body representing providers of housing-with-care developments for older people. Currently, ARCO has 24 members (17 not for profit members and 7 private members, please see the list at the bottom of this letter), and represents approximately 50% of the housing with care market in the UK.

Retirement communities provide housing-with-care for older people, and sit between the traditional retirement housing model (where no care is delivered and support is limited) and care homes (where care is delivered but people do not live in their own homes). An ARCO-registered member community is distinguished by a set of characteristics, the most significant one being that the delivery of care and support is an integral part of each scheme. Alongside the 24/7 presence of staff, our members also provide a variety of communal facilities including dining and recreational services.

1. Does the draft guidance provide local authorities with the information they need to embed wellbeing into the way that they work?

<p>Overall Comment</p>	<p>ARCO welcomes the inclusion of 'living options' in the draft guidance's definition of wellbeing, as well as the recognition that its application is broader than to just those who come into direct contact with their local authority. Nonetheless, ARCO has the following recommendation regarding the provision of further details.</p>
<p>Suggestion 1 <i>(and reason for recommendation)</i></p>	<p>Provide further details as to what 'suitability of living options' entails:</p> <ul style="list-style-type: none"> • <i>While ARCO welcomes that the Care Act guidance approaches wellbeing by focusing on local authorities "meeting needs" rather than the much more prescriptive "providing services", there is a need for some additional details as to what this might mean in practice.</i> • <i>This is particularly relevant for the wellbeing principle of "suitability of living options", as while many of the principles are clear in terms of what they imply, i.e. "participation in work, education, training, or recreation", there is scope for a variety of interpretations of providing a suitable living option.</i> • <i>While ARCO is aware that living options are further addressed in subsequent chapters, we believe that the guidance would nonetheless benefit from providing</i>

	<p><i>greater detail regarding what “suitability of living options” implies in the context of meeting wellbeing. Further examples would also help to supply this context and we will address examples in question 2.</i></p>
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2. Can you suggest some examples to illustrate how the wellbeing principle could be applied?

Overall Comment	<p>As the wellbeing principle focuses on being person-centred, we would suggest the following individual case studies as illustrative examples of how housing can help a local authority to apply the wellbeing principle.</p>
Suggestion <i>(and reason for recommendation)</i>	<p>The guidance could include the following case study as a demonstration of how living options can be used to support wellbeing:</p> <p>“One resident of a retirement village run by a not-for-profit provider had suffered from MS since the 1970’s. However, having recently moved into one of the trust’s retirement villages, he has found that both his own and his wife’s wellbeing has improved.</p> <p><i>‘Now we have moved into the Village I get support and it relieves my wife as well. Before we moved in, I had a carer come in the morning and evening but during the day she helped me. Now she can go shopping and I have the emergency call system if necessary.</i></p> <p><i>The Village has given us both some independence back.</i></p> <p><i>I’m quite active and in quite good health. I go to the gym a lot and use the assisted bike which exercises my arms and legs.</i></p> <p><i>MS is just something you just have to get used to!”</i></p> <p><i>[Please note that the provider of the Retirement Village in this case is the ExtraCare Charitable Trust, but we have anonymised this here. We would be happy if the trust were references in the guidance, but equally happy if the anonymised version above is used.]</i></p>

3. Is the description of prevention as primary, secondary or tertiary, a helpful illustration of who may benefit from preventative interventions, when and what those interventions may be?

<p>Overall Comment</p>	<p>We welcome the framework and description of prevention, but wish to recommend that living options are specifically referenced.</p>
<p>Suggestion <i>(and reason for recommendation)</i></p>	<p>The tertiary category of prevention (2.8) should specifically list living/ housing options:</p> <ul style="list-style-type: none"> • <i>ARCO believes that the addition of living options to the tertiary category would be a positive amendment, and one that could help to guide a local authority in determining when and what an intervention might be.</i> • <i>Given that “living options” form one of the nine key areas of wellbeing, it would be in keeping with the rest of the guidance if the role that housing can play in reducing a person’s needs for care and support were listed here.</i> • <i>This would also be in keeping with other specific references to the role that living options can play in “preventing, reducing or delaying” care needs in the guidance. For instance, 15.67 states that: “The provision of suitable living accommodation can be a way to prevent needs for care and support, or to delay deterioration over time. Getting housing right and helping people to choose the right housing options for them can help to prevent falls, prevent hospital admissions and readmissions, reduce the need for care and support, improve wellbeing, and help maintain independence at home.”</i> • <i>Therefore, ARCO would like to see “living options” included in 2.8 as an example of what tertiary intervention may be.</i>

4. Is the list of examples of preventative ‘services, facilities or resources’ helpful? What else should be included?

<p>Overall Comment</p>	<p>The list is helpful, but could benefit from providing additional examples as to the role that housing has to play.</p>
<p>Suggestion 1 <i>(and reason for recommendation)</i></p>	<p>The list should include the following best practice case studies and examples of preventative services:</p> <ul style="list-style-type: none"> • <i>The ‘Establishing the extra in extra care’ report, produced by the International Longevity Centre (ILC) in 2011, found that while those who lived in extra care housing spent an average of 4.8 days a year in hospital, those of a comparable demographic living in traditional housing spent an average of 5.8 days a year. In this sense, housing with care should be viewed as a preventative model. The report can be viewed at the following link: http://www.ilcuk.org.uk/index.php/publications/publication_details/what_role_for_extra_care_housing_in_a_socially_isolated_landscape</i>
	<ul style="list-style-type: none"> • <i>The ILC research has been supported by a more recent study carried out by the Smith Institute, ‘NHS surplus land for supported housing’ (July 2014), which found that the preventive nature of supportive housing (as well as its role in reablement) results in considerable savings to the NHS. This research can be viewed here: http://www.smith-institute.org.uk/file/NHS%20surplus%20land%20for%20supported%20housing.pdf</i> • <i>This sort of evidence provides clear and demonstrable support for the value of housing as a preventative solution, and we would therefore recommend that the research conducted be included as examples.</i>
<p>Suggestion 2 <i>(and reason for recommendation)</i></p>	<p>The list should be supported by a clear statement that it applies equally for market housing:</p> <ul style="list-style-type: none"> • <i>It is important to make clear throughout the guidance (and including in the list of examples) that local authorities’ duties</i>

	<p><i>towards ensuring suitable living options extends beyond those that come into direct contact with the authority, to every single person living within the local authority area.</i></p> <ul style="list-style-type: none"> <i>This is particularly relevant when considering specialist housing for older people, as older people make up the largest demographic of homeowners (over 75% of older people own their own home, and therefore most older person housing will be provided on the open market).</i>
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5. Views are invited about how local authorities should coordinate and target information to those who have specific health and care and support needs.

Overall Comment	<p>ARCO welcomes the guidance on coordinating and targeting information and is pleased to note that it makes clear that it applies when helpful to all the local authorities' population. ARCO is pleased to note a reference to the FirstStopAdvice service in paragraph 3.63. We would also like to emphasise that the provision of information on housing should be a must.</p>
Suggestion 1 <i>(and reason for recommendation)</i>	<p>The provision of information on housing should be made a 'must' in 3.4, 3.22 and 3.23:</p> <ul style="list-style-type: none"> <i>Housing solutions should receive considerable focus in local authority's efforts to provide information to those who could benefit from it. Therefore, it should not be optional (i.e. a 'should') but a requirement (a 'must').</i>
Suggestion 2 <i>(and reason for recommendation)</i>	<p>The Government should provide long term funding to FirstStopAdvice:</p> <ul style="list-style-type: none"> <i>The All Party Parliamentary Group on Housing and Care for Older People inquiry report, 'Living Well at Home' (2011), recommended that the Government should provide long term funding to FirstStopAdvice.</i> <i>It also recommended that local authorities and service providers should improve the way they produce and convey information to older people about the service options, costs, quality outcomes and sources of further assistance that can educate and enable older people to</i>

	<i>plan for their future housing and care needs and aspirations.</i>
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8. Are there any further suggestions of case studies or tools that can assist local authorities in carrying out their market shaping and commissioning activities?

Overall Comment	We have provided a case study of cooperation between one of ARCO's members and a local authority. In addition, the Housing LIN have produced a series of relevant case studies on market shaping and commissioning activities, which ARCO would recommend were added into Chapter 4.
Suggestion 1 <i>(and reason for recommendation)</i>	<p>This case study demonstrates effective cooperation in providing rehabilitative services between a housing with care provider and the local council, and should be incorporated into chapter 4:</p> <ul style="list-style-type: none"> • Your Housing Group established a long term residential rehabilitation project with Lancashire County Council and West Lancs CCG. As part of their Brookeside Extra Care site, the County Council commissioned Your Housing Group to develop 5 apartments for the sole use of people who require longer term residential rehabilitation. • The service is funded by Lancashire County Council and NHS Central Lancashire with the full support of colleagues from West Lancashire Clinical Commissioning Group. • Typically, individuals will use the service for up to three months, and it has proved effective in providing support and rehabilitation for a variety of people, including those recovering from a stroke or a chronic neurological condition. • To provide one specific example of the scheme's benefits: <i>Trevor had an operation on his knee which left him unable to weight bear. He was unable to go home due to stairs.</i> <p><i>Overview of rehab plan: Trevor had assistance with personal care and meal preparation and the therapy team worked with him on mobility. When Trevor left he was walking on crutches. He was also attending to all of his own personal care and meal preparation.</i></p>
Suggestion 2 <i>(and reason for recommendation)</i>	<p>The Housing LIN's Strategic Housing for Older People Analysis Tool (SHOP@) should be added to chapter 4:</p> <p>www.housinglin.org/SHOPAT/</p>

	<ul style="list-style-type: none"> • Given housing's increasingly important role in supporting older people's health and wellbeing, local authorities can benefit from 'intelligence' as to the needs of the local population. • The Strategic Housing for Older People Analysis Tool (SHOP@) has been used widely by local authorities to support their commissioning activities for older person specialist housing. Developed with the support of the Department of Health, this tool has been used effectively to map current housing with care provision alongside future priorities and demands. <p>Please note that this suggestion is in support of a similar recommendation made by the HousingLIN in their submission.</p>
<p>Suggestion 3 (and reason for recommendation)</p>	<p>The Housing LIN case study on managing risks for extra care housing should be added: www.housinglin.org.uk/Topics/type/resource/?cid=8602</p> <ul style="list-style-type: none"> • In an effort to support decision making on viable services, the Housing LIN published a report that reviews the lessons to be learnt from the Southern Cross business failure and its relevance to the extra care market. • The report, 'Managing risks: Lessons from Southern Cross for the specialist market' (2012) provides a detailed market assessment of the state of specialist housing. <p>Please note that this suggestion is in support of a similar recommendation made by the HousingLIN in their submission</p>
<p>Suggestion 4 (and reason for recommendation)</p>	<p>The Institute of Public Care Market Analysis Centre's Market Position Statement and Housing briefing paper (for the Housing LIN) should be added to chapter 4: http://www.housinglin.org.uk/library/Resources/Housing/Support_materials/Practice_briefings/HLIN_SHOPBriefing1_MPS_digitalversion03.pdf</p> <ul style="list-style-type: none"> • The guidance could benefit from a case study on strategic housing market assessments for specialist housing for older people. • Specialist housing is a fundamental element of the delivery of social care, and should therefore be prominently featured in

	<p><i>local authorities market shaping considerations. This paper provides local authority commissioners with clear guidance regarding how to ensure the development of a diversity of supply of housing through the use of Market Position Statements.</i></p> <p><i>Please note that this suggestion is in support of an identical recommendation made by the HousingLIN in their submission.</i></p>
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20. Do the regulations and guidance provide a clear modern framework for charging that will enable local authorities to maintain existing flexibilities in how people contribute to the cost of meeting their care needs? Are there any particular areas that are not clear?

Overall Comment	<p>The HousingLIN in its submission has raised awareness of issues relating to charging for the availability of care and support around the clock in a housing with care setting. This service supports wellbeing, prevention and early intervention. ARCO would like to support this point, and would like to underline the HousingLIN's suggested approaches which local authorities might adopt in dealing with a compulsory charge for this provision, commonly called a wellbeing or peace of mind charge.</p>
Suggestion 1 <i>(and reason for recommendation)</i>	<p>ARCO (in support of the HousingLIN's submission) suggests that:</p> <p>a) The guidance clarifies whether or not the charge <u>could</u> be counted as a housing-related cost</p> <p>b) That it adds the availability of round the clock care in a supported housing setting to the list of disability-related expenses.</p> <ul style="list-style-type: none"> <i>It is important to emphasise that the guidance should avoid creating situations in which disability benefit is – under a financial assessment – regarded as available to pay for care AND for a housing-related well-being charge.</i>

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39. Does the guidance on personalisation support integration of health and care (and any other state support)?

Overall Comment	ARCO would like to comment that the guidance on personalisation should support the integration of health, care and housing.
Suggestion <i>(and reason for recommendation)</i>	<p>The guidance on personalisation should support the integration of health, care and <u>Housing</u>:</p> <ul style="list-style-type: none"> • <i>As recognised in different chapters of the guidance, suitable living options are a fundamental element of health and care provision for older people (including prevention), and this is especially true in terms of personalisation. Meeting the individual's needs with a suitable living option will play an important role in providing for their care and supporting their health.</i>

47. Does the draft statutory guidance provide a framework that will support local authorities and their partners to make integration a reality locally?

Overall Comment	ARCO would like to comment that the draft statutory guidance goes some way to providing a framework that will support local authorities and their partners to make integration a reality locally. However, we wish to highlight that the integration of services includes health, social care and also housing .
Suggestion <i>(and reason for recommendation)</i>	<p>Local Authorities should be provided with greater numbers of explanations and examples regarding housing:</p> <ul style="list-style-type: none"> • <i>Housing does not simply represent the physical environment in which someone lives, but also the services, staff and purpose of the housing, which can all contribute to what care and support an individual receives and by extension, to the individual's health.</i> • <i>For local authorities to successfully integrate health and social care, they will need to ensure that the housing and living needs of the local population are met.</i>

	<p><i>Therefore, ARCO would recommend that local authorities are provided with repeated explanations and examples throughout the guidance as to how housing, health and social care can be intertwined so as to provide a genuinely integrated local service.</i></p>
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48. Are there any ways the guidance can better support coordination locally?

Overall Comment	<p>ARCO believes that coordination could be better supported by the guidance if it made clear that local authorities have a duty to regularly assess housing availability, and that this extends to private market housing.</p>
Suggestion (and reason for recommendation)	<p>The guidance should stipulate that local authorities have a duty to regularly assess housing availability within their area:</p> <ul style="list-style-type: none"> • <i>As the draft guidance recognises, living options provide a core component of the wellbeing principle and it is therefore important that local authorities identify any shortages in specialist housing and seek to remedy it.</i> • <i>Equally, it is important to emphasise that a local authority's duty to identify shortages should extend to market housing too, as the majority of older residents will own their own homes, and use the market to access specialist housing.</i> • <i>To clarify, ARCO recognises that responsibilities for the provision of housing and health care are legally separate, and we are not suggesting that the two should be formally integrated, but we are suggestion that the integration encouraged by the Care Act will rely on local authorities having 'regard' to carrying out regular housing assessments with health and social care in mind.</i>

53. Could local authorities' duties in relation to housing be described more clearly in the guidance?

<p>Overall Comment</p>	<p>ARCO welcomes that housing plays a key role in the Care Act and that this is recognised in the guidance. However, we regret that the boundaries between housing and care and support have been maintained. While we understand that this may be necessary in the context of the Care Act, we would nevertheless encourage housing to be prominently highlighted in case studies and examples. This includes the role that housing can play for general wellbeing and not simply for the care needs of those eligible for local authority support. Chapter 15 provides authorities with a detailed guidance of their duties related to housing and ARCO would like to make a number of recommendations regarding these (please note that several of these have also been made by the HousingLIN, and ARCO would like to support these).</p>
<p>Suggestion 1 <i>(and reason for recommendation)</i></p>	<p>Consistency in the definition of 'housing related services' should be ensured throughout the chapter:</p> <ul style="list-style-type: none"> • <i>There is a slight lack of consistency throughout Chapter 15 in terms of what 'housing related services' entails.</i> • <i>For example, while 15.54 defines housing related services to include the staff and services around the home, i.e. social activities, in 15.59, housing is referred to purely in terms of its physical environment, noting that it should provide a 'safe and secure space'.</i> • <i>Recognising that housing includes the services provided within and around the home is necessary for 'living options' to form part of the wellbeing principle, as it is these services and not just the physical environment that will support the wellbeing principles (i.e. emotional and social wellbeing).</i> • <i>Therefore, we would recommend that Chapter 15 ensures a consistency in its definition of housing services in a manner that recognises that such housing services has a broader meaning than just the physical environment.</i> • <i>To help demonstrate the importance of both the physical environment and the staff and services, the Housing LIN have produced the following 'Building</i>

	<p><i>Mutual Support and Social Capital in Retirement Housing:</i> www.housinglin.org.uk/pagefinder.cfm?cid=8429</p> <p>Please note that this suggestion is in support of a similar recommendation made by the HousingLIN in their submission.</p>
<p>Suggestion 2 <i>(and reason for recommendation)</i></p>	<p>ARCO recommends that the guidance provides specific details of the variety of housing models and services that local authorities might wish to consider:</p> <ul style="list-style-type: none"> • <i>While Chapter 15 provides good detail as to what a local authorities' duties are in relation to housing, it does not provide enough specific detail on the different types of housing services a local authority might wish to consider.</i> • <i>By noting that a local authority might meet their housing duties by ensuring the adequate provision of dementia care units, extra care housing etc., Chapter 15 would enhance its clarity.</i> • <i>The chapter could equally be strengthened by providing greater numbers of examples as to how housing supports concepts such as prevention. This would again provide the sort of practical demonstration of the guidance that will ensure clarity for local authorities. One such example that the guidance may wish to consider is the Housing LIN's 'The business case for extra care housing: An evaluation of extra care housing in East Sussex', www.housinglin.org.uk/pagefinder.cfm?cid=8988</i> <p>Please note that this suggestion is in support of an identical recommendation made by the HousingLIN in their submission.</p>
<p>Suggestion 3 <i>(and reason for recommendation)</i></p>	<p>The first sentence of 15.61 should be made clearer:</p> <ul style="list-style-type: none"> • <i>The first sentence of 15.61 is a little unclear as to what it actually means, and it would be better if this was removed and the second sentence was slightly reworked. So, ARCO recommends that the following be removed (or reworded):</i>

	<p><i>‘Enabling individuals to recognise their own skills, ambitions and priorities and developing personal and community connections in relation to housing needs can help promote an individual’s wellbeing.’</i></p> <p><i>While the second sentence could be reworked to read the following:</i></p> <p><i>‘Supporting individuals through the provision of good quality information and advice can help people to make early choices regarding housing options and related services in advance of a potential crisis.’</i></p> <p>Please note that this suggestion is in support of an identical recommendation made by the HousingLIN in their submission.</p>
<p>Suggestion 4 <i>(and reason for recommendation)</i></p>	<p>ARCO recommends that the ‘should’ in 15.63 should be replaced with a ‘must’:</p> <ul style="list-style-type: none"> • Therefore 15.63 should read: <i>“Wherever relevant, a local authority must consider suitable living accommodation in looking at a person’s needs and desired outcomes.”</i> • <i>Living options are a key element of the wellbeing principle, not simply an option, and it is important that local authorities are required to recognise this consistently throughout the guidance.</i>
<p>Suggestion 5 <i>(and reason for recommendation)</i></p>	<p>The guidance should recommend that local authorities have housing represented on health and wellbeing boards:</p> <ul style="list-style-type: none"> • <i>ARCO recommends that 15.8b) is strengthened so as not simply to suggest that local authorities may wish to have housing represented on health and wellbeing boards, but rather that they should.</i> • <i>Existing guidance already suggests that housing be represented on health and wellbeing boards, and given the Care Act’s emphasis on integration, it should seek to encourage much greater representation of housing on these boards.</i>

66. Are there additional possible members of Safeguarding Adult Boards that we should add?

<p>Overall Comment</p>	<p>ARCO welcomes that housing is now clearly involved in safeguarding, and believes that this will both improve safeguarding, and increase consistency and clarity. However, ARCO also recommends that housing is included as a statutory Safeguarding Adult Boards member.</p>
<p>Suggestion (and reason for recommendation)</p>	<p>Housing should be included as a statutory Safeguarding Adult Boards member:</p> <ul style="list-style-type: none"> • <i>Though it is likely that boards will nonetheless draw input on housing, unless this is formally required for all, then there will both a lack of consistency, as well as an inability to guarantee that housing will receive the attention that other aspects of the guidance on safeguarding suggests that it should.</i>

Thank you very much for taking the time to read our response, and we hope that you found it informative. Please don't hesitate to contact us if you have any queries regarding the information that we have provided.

Yours faithfully,

Michael Voges
Executive Director

