

Public Document Pack

Mid Devon District Council

Homes Policy Development Group

Tuesday, 15 November 2022 at 2.15 pm
Phoenix Chambers, Phoenix House, Tiverton

Next meeting
Tuesday, 17 January 2023 at 2.15 pm

PLEASE NOTE: - this meeting will take place at Phoenix House and members of the Public and Press are able to attend via Zoom. If you are intending to attend in person please contact the committee clerk in advance, in order that numbers of people can be appropriately managed in physical meeting rooms.

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Membership

Cllr G Barnell

Cllr J Bartlett

Cllr J Cairney

Cllr S J Clist

Cllr D R Coren

Cllr R J Dolley

Cllr B Evans

Cllr P J Heal

Cllr R F Radford

AGENDA

Members are reminded of the need to make declarations of interest prior to any discussion which may take place

- 1 **Apologies and Substitute Members**
To receive any apologies for absence and notice of appointment of substitutes.
- 2 **Public Question Time**
To receive any questions relating to items on the Agenda from members of the public and replies thereto.
- 3 **Declaration of Interests under the Code of Conduct**
To record any interests on agenda matters.
- 4 **Minutes (Pages 5 - 8)**
To consider whether to approve the minutes as a correct record of the meeting held on 28 September 2022.
- 5 **Chairman's Announcements**
To receive any announcements that the Chairman may wish to make.
- 6 **Medium Term Financial Plan - Options (Pages 9 - 18)**
To receive a report from the Deputy Chief Executive (S151) presenting to Member's the updated Medium Term Financial Plan (MTFP) which covers the period 2023/24 to 2027/28 and to discuss initial options for cost savings or income generation.
- 7 **Private Sector Housing Fees and Charges 2022/23 and 2023/24 (Pages 19 - 44)**
To receive a report from the Corporate Manager for Public Health, Regulation and Housing providing Members with the revised fees and charges for locally-set Private Sector Housing statutory functions delivered by the Public Health and Housing Options Service. The report also outlines the fees and charges for non-locally set fees in the same service area which are not subject to change but for which an updated policy on financial penalties applies in some areas as set out.
- 8 **Housing Revenue Account (HRA) Fees and Charges 2022/23 (Pages 45 - 52)**
To receive a report from the Corporate Manager for Public Health, Regulation and Housing providing Members with the revised fees and charges for the discretionary functions provided under the HRA. The Council has not increased the fees and charges for these services for some years and they require updating.
- 9 **Mid Devon Housing Draft Policy Relating to Tenant Use of Closed Circuit TV (CCTV) & Camera Doorbells (Pages 53 - 62)**
To receive a report from the Corporate Manager for Public Health,

Regulation and Housing providing a new draft policy setting out the conditions associated with the granting of permission for tenants to install closed circuit television systems (CCTV) and camera doorbells in or on their property is presented to Members. This has been developed on the basis that such a policy would provide greater clarity to stakeholders and ensure that those tenants fitting such systems were doing so lawfully, recognising the obligations on tenants to ensure compliance.

10 **Mid Devon Housing Service Delivery Report** *(Pages 63 - 72)*

To receive a report from the Corporate Manager for Public Health, Regulation and Housing providing the regular, quarterly update to Members on enforcement and other activity undertaken by Mid Devon Housing.

11 **Identification of items for the next meeting**

Members are asked to note that the following items are already identified in the work programme for the next meeting:

- Briefing on Tenure
- Housing Strategy Update and Annual Review
- Housing Assistance Policy
- Empty Homes Plan
- Tenant Involvement and Empowerment Update
- Draft Budget 23/24

Note: This item is limited to 10 minutes. There should be no discussion on the items raised.

Stephen Walford
Chief Executive
Monday, 7 November 2022

Meeting Information

From 7 May 2021, the law requires all councils to hold formal meetings in person. The Council will enable all people to continue to participate in meetings via Zoom.

If you want to ask a question or speak, email your full name to Committee@middevon.gov.uk by no later than 4pm on the day before the meeting. This will ensure that your name is on the list to speak and will help us ensure that you are not missed. Notification in this way will ensure the meeting runs as smoothly as possible.

If you would like a copy of the Agenda in another format (for example in large print) please contact Sarah Lees on:

E-Mail: slees@middevon.gov.uk

Public Wi-Fi is available in all meeting rooms.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **HOMES POLICY DEVELOPMENT GROUP** held on 28 September 2022 at 2.15 pm

Present

Councillors

R J Dolley (Chairman)
G Barnell, J Bartlett, J Cairney, S J Clist, D R Coren,
P J Heal, S Pugh and R F Radford

Also Present

Councillors

L J Cruwys, R M Deed and S J Penny

Present

Officers

Jill May (Director of Business Improvement and Operations), Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing), Mike Lowman (Building Services Operations Manager) and Sarah Lees (Member Services Officer)

27 **Apologies and Substitute Members**

There were no apologies for absence.

28 **Public Question Time**

There were no questions from members of the public.

29 **Declaration of Interests under the Code of Conduct**

No interests were declared under this item.

30 **Minutes**

The minutes of the meeting held on 26 July 2022 were approved as a correct record of the meeting and signed by the Chairman.

31 **Chairman's Announcements (00:05:00)**

The Chairman informed the Group that the recommendation they had made at their last meeting regarding the purchase of houses for multiple occupation had been considered thoroughly by the Cabinet. However, the Cabinet had decided to purchase two houses rather than one. Despite this, the deliberations of the Homes Policy Development Group had been much appreciated and welcomed.

32 **Mid Devon Housing Service Delivery Report (00:12:00)**

The Group received, and **NOTED**, a report * from the Corporate Manager for Public Health, Regulation and Housing providing an update to Members on enforcement

and other activity undertaken by Mid Devon Housing. This included the following information:

- The report provided a summary of results in relation to key performance indicators, including voids and debt recovery.
- The Government had mandated that new Tenant satisfactory measures be reported upon and this applied to anybody providing social housing. This would be a focus for the Regulator in the future.
- There was a challenge for the Council at the current time in terms of staff recruitment and retention. This was being experienced across the sector.

Consideration was given to:

- The effectiveness of the Devon Home Choice (DHC) Allocations system. It was explained under the new regulatory regime that any provider having over a 1,000 properties to rent out will be required to have an open, fair and transparent allocation system which DHC already provides. There had to be a level playing field providing vital assurance that all was fair. There could be issues with bandings which could be looked at on an individual basis. Have a regional approach was also supported by the larger Housing Associations who joined DHC on this basis which ultimately provides more choice for tenants.
- Despite the pressures within the service the Group were reassured that issues were prioritised in terms of health & safety, repairs and maintenance.
- The complexity of multiple debt issues experienced by tenants given the current cost of living crisis and the effect of having to deal with this on the Neighbourhood officers. It was explained that officers were trained and worked with third parties such as CAB, CHAT and DWP, however, there were pressures.
- Possession numbers increasing. Every effort was made to engage with Tenants before things escalated but sometimes this was not possible and there was no option but to refer matters to the court. This was always used as a last resort.
- Assessing numbers of staff within the specialist team was always under review, however, there were financial implications to consider in terms of additional recruitment and training costs.

Note: * Report previously circulated; copy attached to the signed minutes.

33 **Briefing on the Social Housing (Regulation) Bill and changes to Social Housing Regulatory Regime (00:55:00)**

To Group received, and **NOTED** a report * from the Corporate Manager for Public Health, Regulation and Housing providing an update to Members of the PDG on the Social Housing (Regulation) Bill which will reform the regulation of social housing; and which will set out the terms of approved schemes for the investigation of housing-related complaints. This paper also provided some information on the subsequent report of the Levelling Up, Housing and Communities Committee report, published on 20 July 2022 alongside an informal presentation by the Social Housing Regulator in August 2022.

The following was highlighted within the report:

- The report provided a summary of the changes to the Social Housing Regulatory regime. It would be much more proactive in terms of striving for tenant engagement and satisfaction going forwards and would also provide more guidance to housing providers.
- The changes had been driven out of the Grenfell Tower disaster.
- Tenants needed to be listened to.
- Early proactive engagement with the Regulator had already been undertaken and would continue to ensure all staff, tenants and Members were consulted on a way forward.

The Corporate Manager for Public Health, Regulation and Housing was thanked for his explanation of the new Bill, his hard work and his proactiveness in working with the Regulator at an early stage.

Note: * Report previously circulated; copy attached to the signed minutes.

34 **Homes for Ukraine Scheme - update (01:14:00)**

The Group received a presentation from the Corporate Manager for Public Health, Regulation and Housing which provided summarised information in relation to the following:

- Role / focus of Local Authorities on the Homes for Ukraine Scheme (HfU)
- HfU scheme funding
- Funding arrangement in place with Devon County Council
- HfU scheme roll-out
- Local Mid Devon delivery team
- Latest Mid Devon position
- Requirements & challenges
- Current position – wraparound support
- Housing and other risks
- Next steps: re-settlement work
- Team Devon Approach
- Short and long-term solutions
- Support examples

Consideration was given to:

- The Corporate Manager for Public Health, Regulation and Housing was congratulated for his thorough and comprehensive update on the Homes for Ukraine Scheme and the amount of work that he and his team were undertaking.
- The family scheme was proving to be the most challenging but much was being done to provide support and signpost to other helpful agencies.
- Concerns that the crisis in Ukraine was far from over and may well get worse.
- The complexities in having to support individuals and families experiencing trauma.
- Was the scheme sustainable? What support was being given by central Government? It was confirmed that the Government were continuing to look at

the scheme very closely, however, due to recent national events, such as the election of a new Prime Minister, the energy crisis and the economy, the scheme appears to have been put on the backfoot somewhat. Team Devon were expressing their frustrations at a high level.

- Mid Devon Tenants were able to take in Ukrainian guests but would need fully assessing first and permission from Mid Devon as the landlord.

35 **Identification of items for the next meeting (02:00:00)**

In addition to the items already listed in the work programme for the next meeting the Group requested that they receive an update in relation to the following at a future meeting:

- Consideration of the current Mid Devon Housing Development Plan and the Housing Needs Assessment jointly and the possibility of setting up a working group to assess the issues further.

(The meeting ended at 4.25 pm)

CHAIRMAN

Home Policy Development Group 15 NOVEMBER 2022

MEDIUM TERM FINANCIAL PLAN – Options

Cabinet Member Cllr Andrew Moore, Cabinet Member for Finance
Responsible Officer Andrew Jarrett – Deputy Chief Executive (S151)

Reason for Report: To present to Member's the updated Medium Term Financial Plan (MTFP) which covers the period 2023/24 to 2027/28 and to discuss initial options for cost savings or income generation.

RECOMMENDATION: That PDG Members review the options included within the Appendices and recommend to Cabinet the way forwards, noting that if the committee doesn't support any options, alternative suggestions should be made.

Relationship to Corporate Plan: The Medium Term Financial Plan (MTFP) sets out the financial resources available to deliver the Council's ongoing Corporate Plan priorities.

Financial Implications: By undertaking an annual review of the MTFP the Council can ensure that its Corporate Plan priorities are affordable. The implications of the revised budget gap are set out within the paper. Many areas require greater clarity, particularly around national funding and the possibility of additional funding to offset the implications of the cost of living crisis. Therefore a number of key assumptions underpin the reported position, which will be refined as greater clarity is received through the budget setting process.

Budget and Policy Framework: The Council has an annual legal requirement to set a balanced budget. The MTFP provides an overarching steer of what the Council can afford to deliver over a rolling five year period and is instrumental in setting the budgetary context for next year's budget setting process.

Legal Implications: None directly arising from this report, although there is a legal obligation to balance the budget. There are legal implications arising from any future consequential decisions to change service provision, but these would be assessed at the time.

Risk Assessment: The MTFP makes a number of financial assumptions based on a sensible/prudent approach, taking account of the most up to date professional advice that is available.

Equality Impact Assessment: No implications arising from this report.

Climate Change Assessment: The allocation of resources will impact upon the Council's ability to implement/fund new activities linked to climate change, as the MTFP sets the broad budgetary framework for the Council over the coming years. However, some provision has already been included in the base budget and further evaluation/consideration will be made as the draft budget passes through the PDGs

over the next few months. Significant investment is currently forecast within the Capital Programme, however this will be dependent upon full options appraisals and levels of Grant funding available.

1 Introduction to the Medium Term Financial Plan

- 1.1 The main purpose of the MTFP is to show how the Council will strategically manage its finances in order to support the delivery of the priorities detailed in the Corporate Plan 2020 – 2024 and future years beyond that plan.
- 1.2 The MTFP helps strategically plan the budget setting process, but of equal importance, gives Management and Members an overview of future budget gaps so strategic decisions can be made over levels of future spending, Council Tax levels, policies for fees and charges, asset investment or disposal, etc.
- 1.3 The following underlying principals have been adopted as a base assumption during the life of the MTFP:

1.3.1 Principal 1 – General Fund Reserves

- Each year the Council will target a balanced revenue budget without the use of General Fund reserve balances. The level of predicted deficits over the period of this plan may ultimately require the application of reserves to a degree to achieve the mandatory balance. However, this option is not reflected in the numbers presented and must only be considered as a last resort;
- The Council faces considerable financial risks that can have a potentially significant and immediate impact on its finances. The MTFP will attempt to ensure that the General Fund Reserve balance does not fall below the current minimum agreed level (£2m). However, this floor may be revised in light of the financial position and likely risks, or breached as a last resort to achieve a balanced budget.

1.3.2 Principal 2 – Optimise Income Generation

- Council Tax funds the largest share of the Council's budget. Annual increases will be kept within Government set guidelines. In reality this now gives the Council very little scope to significantly increase Council Tax income as the recent nationally prescribed referendum rate has been limited to a maximum of 2% or £5. This plan assumes that this rate will remain unaltered throughout the five year cycle;
- The Council will continue to look at opportunities to generate additional sustainable income. This could be through reviews of existing Fees and Charges or through new charges for discretionary services. Such charges should be set at levels that are appropriate and proportionate to the costs of the service they are delivering and the market within which they operate.

The Council will continue to explore new commercial opportunities (as a 'business as usual' model is clearly no longer deliverable).

1.3.3 Principal 3 – Allocation of Revenue Resources

- Resources will be directed to high priority services and hence away from low priority services. With the exception of spend to save projects on lower priority services that can either cut future costs or increase revenue to enable cross subsidisation of higher priority services;
- It will seek to deliver further efficiency in its service delivery models and secure procurement savings in its new contractual arrangements which will then be factored into future spending plans.

1.3.4 Principal 4 – Allocation of Capital Resources

- The Council will continue to prioritise schemes, for instance to generate income, to meet corporate objectives and to enhance its asset base;
- The Council will continue to ensure it provides Value for Money through the efficient and effective use of its assets. The Council will look to dispose of surplus assets in order to maximise capital receipts and reduce ongoing revenue maintenance costs associated with holding the asset. Careful consideration will also need to be used to ensure the maximum market value is achieved when disposing of assets;
- Prudential borrowing will only be made during the life of the MTFP after the production of a fully costed business case that demonstrates how the investment meets the Council's policy objectives, has exhausted all other external funding routes and delivers measurable improvement within a reasonable payback period;
- The Council will keep its internal borrowing under review and when appropriate will consider the potential to fix rates in the medium to long term to manage the risk and potential financial impact of interest rate increases. Consideration will also be given to whether the most appropriate funding mechanism is to fully utilise cash balances and undertake short-term borrowing to meet cash flow requirements. The Council continues to consult specialist advice to keep this under review.

1.4 These are all underpinned by a culture of Budget Ownership across all services.

2 Current status of the Medium Term Financial Plan

2.1 Members will be aware that this MTFP has been developed against a backdrop of:

- an aggregate cut in Central Government Grant of c£5m between 2010/11 and 2022/23;
- an international pandemic that has had an unprecedented impact on the Council in terms of its finances, its resources and ways in which it delivers its services. Service income in Leisure and Car Parking remains materially lower than pre-covid-19 levels. The national debt has risen to £2.4 Billion at the end of March 2022, 99.6% of GDP¹, which will need to be repaid indicating that austerity measures are likely to continue;
- the invasion of Ukraine which has significantly impacted the availability and therefore price of energy and fuel, leading to a cost of living crisis not seen since the early 1980's. It has required the reallocation of Council resources into supporting the Government with their Energy Rebate and Homes for Ukraine schemes;
- Political change at a national level leading to uncertainty and emergency policy decisions being taken that have unsettled the financial markets. Interest rates have soared over the course of the summer.

Yet the Council continues to deliver a wide range of well performing services.

2.2 There are still some fundamental issues that have not been resolved or are still to be fully evaluated. These issues may either improve or worsen the summary budget position currently reported, but can be summarised as follows:

- Any changes in policies and legislation following the appointment of the new Prime Minister. One such change has been to scrap the recently implemented increase in National Insurance to fund the NHS and Social Care Reforms;
- The impact of the emergency “Mini Budget” and the “Medium Term Fiscal Plan” due to be announced on 31 October and their consequences for the Local Government Financial Settlement due in December;
- The ongoing impact of the Cost of Living crisis, the likely recession as a consequence and whether local government will receive any financial support;
- Changes to Central Government funding schemes such as Business Rate allocations/mechanics;
- Ongoing implications of Covid-19, particularly on service income from fees and charges;
- Ongoing service reviews (including changes to fees and charges) as services look to improve the efficiency and effectiveness of their delivery.

2.3 Table 1 and the associated graph shown below, gives a summary position for the MTFP over the next five years. This shows an overall deficit of £5,219k over the

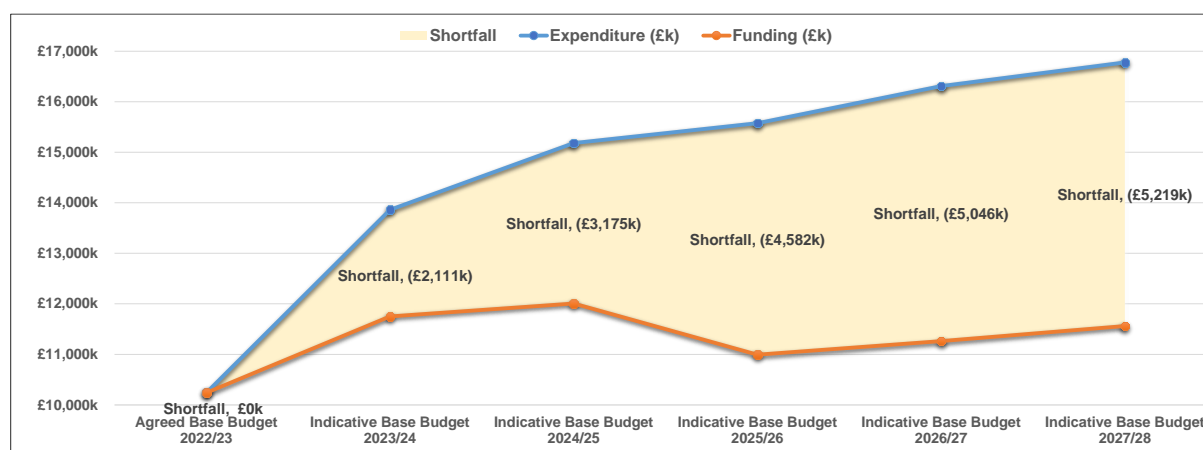
¹ Office for National Statistics - [UK government debt and deficit - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/government/articles/articles/uk-government-debt-and-deficit)

5-year life of the plan, equivalent to approximately 35% of the current Net Service Cost. To enable a better understanding of the individual Net Service Costs, **Appendix 1** breaks down the budget by service unit.

Table 1 – MTFP General Fund Summary

2022/23		2023/24	2024/25	2025/26	2026/27	2027/28
£000		£000	£000	£000	£000	£000
10,240	Expenditure	13,863	15,182	15,575	16,309	16,780
(10,240)	Funding	(11,751)	(12,007)	(10,993)	(11,262)	(11,561)
0	Annual Shortfall	2,111	1,063	1,408	464	173
0	Cumulative Shortfall	2,111	3,175	4,582	5,046	5,219

Graph 1 – MTFP General Fund Cumulative Budget Gap 2022/23 to 2027/28



- 2.4 During the summer, Leadership Team and services have been reviewing a range of budget options that could be considered in order to help mitigate that remaining budget shortfall across the five years of this MTFP with a view to identifying a net £1m saving in both 2023/24 and 2024/25. The views of this Policy Development Group (PDG) on where any possible budget savings could be found to resolve the immediate budget gap for 2023/24 and future years will form the basis of the discussions with a view to the PDG making recommendations to Cabinet.
- 2.5 Part of that saving could come from increasing income from Service Fees and Charges. In many cases, these have not been increased for up to three years in order to promote the recovery from Covid-19. However, during that timeframe costs have increased, for example general inflation has increased prices by nearly 16.5% since April 2019. Therefore Service Fees and Charges are being reviewed to ensure they cover the cost of the service provided and where possible any new proposed fees will be implemented as soon as possible to assist the in-year shortfall. Various options and recommendations for Service Fees and Charges are set out in the remaining Appendices with a view to the Policy Development Groups (PDG's) making recommendations to Cabinet. In addition the PDG's are asked to identify further options to resolve the immediate budget gap for 2023/24 and future years.

- 2.6 Clearly there remains a significant budget shortfall in 2023/24 even if the £1m is identified and delivered and revised Service Fees and Charges are implemented. Therefore, all possible options to increase income or reduce costs must be considered, hence the importance of PDG's offering recommendation for new/alternative options. This could include identifying new fees and charges or options to generate income, or identifying service savings / reductions – which may incur short term upfront costs.
- 2.7 Members will appreciate that some of the indicative savings and changes to Service Fees and Charges will require political support and therefore if some suggestions are deemed to be unacceptable then other savings will need to be proposed.

3 Housing Revenue Account (HRA) – HOMES PDG Only

- 3.1 The HRA is a ring-fenced account within Mid Devon's financial accounting system. This means that a balanced budget must be set each year including all income and expenditure pertinent to the Council's landlord function and excluding all other income and expenditure (since this would be captured as part of the General Fund budget).
- 3.2 The draft HRA MTFP for 2023/24 to 2027/28 is summarised below, with greater detail included within **Appendix 5**.

2022/23		2023/24	2024/25	2025/26	2026/27	2027/28
£000		£000	£000	£000	£000	£000
7,722	Direct Expenditure	8,497	8,814	9,084	9,413	9,704
(13,456)	External Income	(14,064)	(14,826)	(15,674)	(16,410)	(17,182)
(5,734)	Net Cost Of Services	(5,567)	(6,012)	(6,591)	(6,996)	(7,478)
981	Capital Financing Costs	1,010	1,191	1,338	1,748	2,151
925	Interest Payable	1,178	1,855	2,573	3,092	3,256
3,828	Indirect Expenditure	3,640	3,728	3,598	3,669	3,602
0	Budget (Surplus) / Deficit	261	762	919	1,512	1,531
0	Cumulative (Surplus) / Deficit	261	1,023	1,942	3,454	4,985

- 3.3 As per the General Fund budget, the cost of living is having a substantial impact to the HRA. The proposed pay award is impacting in 2023/24 and the proposed Government rent cap of 5% together with the increase in interest rates is impacting on the forecast financing costs for the planned build programme to add/update the housing stock. Given the forecast increases in interest rates, this situation might worsen further than our prudent estimates.
- 3.4 A review of fees and charges under both Private Sector Housing and HRA (Mid Devon Housing) are included within the Appendices with a view to the Policy Development Groups (PDG's) making recommendations to Cabinet. In addition the PDG is asked to identify further options to resolve the immediate budget gap for 2023/24 and future years.

4 On-going Delivery of a MTFP

- 4.1 The MTFP will continue to be updated on an annual basis. This will ensure that it will be a live document, subject to amendment and review by Leadership Team and Members and will provide a clear guide prior to commencing the annual budget setting process in future years.

5 Conclusion

- 5.1 Like all councils, Mid Devon is facing an ongoing and very challenging financial future. Having a realistic financial plan for the next five years will enable the Council to ensure it is allocating its limited financial resources to its key priorities. Moving forward Members will be provided with regular updates on the financial impact of any variation to what has been previously assumed.
- 5.2 It should also be noted that the PDGs will continue to play a pro-active role in both reducing ongoing service costs and exploring new possibilities to raise additional income. Options will be brought forward for consideration over the next few months in the run in to setting the 2023/24 budget in February 2023.

Contact for more information: Andrew Jarrett
Deputy Chief Executive (S151)
01884 234242
ajarrett@middevon.gov.uk

Paul Deal
Corporate Manager for Financial Services
pdeal@middevon.gov.uk

Circulation of the Report: Cabinet, Cllr Andrew Moore, Leadership Team

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PDG SERVICE UNIT MOVEMENTS

Appendix 1

Service Unit	Direct Costs Detail	2022/2023 Forecast Budget £
	Cabinet	
SCM01	Leadership Team	534,019
SCM02	Corporate Functions	100,260
SCM03	Corporate Fees	266,935
SCM06	Pension Backfunding	801,480
SES01	Emergency Planning	7,500
SFP01	Accountancy Services	478,460
SFP02	Internal Audit	97,480
SFP03	Procurement	101,340
SFP04	Purchase Ledger	48,460
SFP05	Sales Ledger	47,330
SHR01	Human Resources	497,080
SHR02	MDDC Staff Training	25,000
SHR03	Payroll	40,960
SHR04	Learning And Development	53,430
SIT01	IT Gazetteer Management	76,400
SIT03	IT Information Technology	1,260,750
SLD01	Electoral Registration	218,278
SLD02	Democratic Rep And Management	544,662
SLD04	Legal Services	419,661
SPR01	Building Regulations	17,390
SPR04	Local Land Charges	(24,561)
SRB01	Collection Of Council Tax	361,270
SRB02	Collection Of Business Rates	(98,870)
SRB03	Housing Benefit Admin & Fraud	180,920
SRB04	Housing Benefit Subsidy	65,000
SRB06	Debt Recovery	78,680
TOTAL CABINET PDG		6,199,314
	Community PDG	
SCD01	Community Development	138,500
SCS20	Customer Services Admin	23,720
SCS22	Customer First	725,598
SES03	Community Safety - C.C.T.V.	16,390
SES04	Public Health	3,990
SES11	Pool Cars	1,884
SES16	ES Staff Units/Recharges	792,330
SES17	Community Safety	6,070
SES18	Food Safety	(25,340)
SES21	Licensing	24,030
SES22	Pest Control	2,500
SES23	Pollution Reduction	7,250
SPR02	Enforcement	92,800
SPR03	Development Control	587,570
SPR09	Forward Planning	306,890
SPR11	Regional Planning	234,760
SRS01	Recreation And Sport	903,485
TOTAL COMMUNITY PDG		3,842,427
	Economy PDG	
SCD02	Economic Development	70,320
SCP01	Parking Services	(489,680)
SPR06	Economic Development	706,700
SPS12	Gf Properties Shops/Flats	(306,890)
TOTAL ECONOMY PDG		(19,550)
	Environment PDG	
SES02	Cemeteries	(67,230)
SES05	Open Spaces	180,190
SGM01	Grounds Maintenance	559,523
SPS01	Asset Management	188,310
SPS03	Flood Defence And Land Drain	26,020
SPS04	Street Naming & Numbering	8,070
SPS05	Administration Buildings	425,140
SPS06	MDDC Depots	141,240
SPS07	Public Transport	(6,110)
SPS09	Property Services Staff Unit	734,650
SPS11	Public Conveniences	41,330
SWS01	Street Cleansing	472,798
SWS02	Waste Collection	435,192
SWS03	Recycling	978,510
SWS04	Waste Management	377,770
TOTAL ENVIRONMENT PDG		4,495,403
	Homes PDG	
SES15	Private Sector Housing Grants	(1,490)
SHG03	Homelessness Accommodation	269,192
TOTAL HOMES PDG		267,702
GRAND TOTAL		14,785,296

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HOMES POLICY DEVELOPMENT GROUP 15 NOVEMBER 2022

PRIVATE SECTOR HOUSING FEES AND CHARGES 2022/23 and 2023/24

Cabinet Member: Cllr Stuart Penny, Cabinet Member for Housing

Responsible Officer: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Reason for Report and Recommendation: To provide Members with the revised fees and charges for locally-set Private Sector Housing statutory functions delivered by the Public Health and Housing Options Service. The report also outlines the fees and charges for non-locally set fees in the same service area which are not subject to change but for which an updated policy on financial penalties applies in some areas as set out.

Recommendations:

- 1. That Cabinet approve the revised locally-set fees and charges as set out in Annexes 1 and 2**
- 2. That the Homes PDG recommends that Cabinet approve the revised Policy on the Use of Financial Penalties in Annex 4**

Financial Implications: The revised, locally set fees and charges are set out in Annex 1 and 2 of the report. The fees have been updated to reflect, actual current service delivery costs as well as a recommendation above to apply further adjustments from 23/24 onwards. Any income generated from these activities is unpredictable based on the nature of enforcement action. It is therefore not possible to forecast any income levels for the year.

Budget and Policy Framework: There is no specific budget for enforcement activity so it is important that the service recovers the cost of enforcement activity where possible. The fees must be set within the scope of the legislation and the Enforcement Policy. The Council must also have a policy on the use of Civil Penalties as an alternative to prosecution. Recent legislative changes mean that the scope of financial penalties has changed and the Policy (in Annex 4) has been updated to reflect this.

Legal Implications: There are no major legal implications. Where there are specific provisions under legislation, statutory functions or discretionary services for fees to be charged then these are indicated in the body of the report.

Risk Assessment: There are no major risks. A failure to update the relevant fees and charges could mean we are not able to adequately recover costs where we are able to do so.

Equality Impact Assessment: An assessment is not necessary for this report. The charges are set, are applicable to the service being provided on a cost-recovery basis only and do not disadvantage any protected characteristics or specific groups.

Relationship to Corporate Plan: This report relates to the economy, homes and community elements for the corporate plan priorities, by recharging for officer time in relation to enforcement activities, Houses in Multiple Occupation (HMO) licensing and recovering costs associated with largely statutory services.

Impact on Climate Change: None directly relevant to this report.

1.0 Introduction

- 1.1 Private Sector Housing within Public Health and Housing Options has a duty to ensure that private accommodation meets minimum standards. In particular there are regulations for the licensing, management and use of houses in multiple occupation (HMO), carbon monoxide detectors and smoke alarms, electrical safety and energy efficiency standards, and hazards within the home.
- 1.2 All enforcement activities and relevant fees and charges within this report are set out in compliance with the legislation and the Mid Devon District Council Enforcement Policy number PH/EP/09/20, adopted in January 2021.
- 1.3 The table of fees and charges will be published on the Council website for transparency and openness.

2.0 Changes to the fees and charges – locally set fees

- 2.1 A breakdown of the Council's locally-set current and proposed fees and charges in respect of its private sector housing functions is included in **Annex 1** (2022/23) and **Annex 2** (2023/24).
- 2.2 In contrast with other areas of fee setting where the service provided is wholly discretionary, these fees and charges almost wholly relate to statutory functions and powers where there is provision to set the fee locally within the constraint that it is based on full cost-recovery only, therefore without a profit element.
- 2.3 These fees were previously reviewed in 2020 and costs have increased alongside some service efficiencies meaning less time is required to deliver elements of some functions. As a result, the fees and charges increases are variable between approximately 11 – 14% in-year for 22/23 excluding the works in default administrative change (50% increase) and will apply from date of the Cabinet decision, if agreed, with allowance for call-in.
- 2.4 A further update for 23/24 onwards has been calculated based on predicted, forward adjusted officer hourly rates provided by the Finance team. This has resulted in an additional, variable increase from the proposed 22/23 baseline of approximately 3-4% excluding the HMO public register copy costs.

HMO Licensing

- 2.5 Section 63(3) of the 2004 Act gives the Council the power to recover all reasonable costs associated with the administration of the HMO licensing function.

- 2.6 Previously the application fees have been charged as a lump sum payable by the applicant on submission of the application. To ensure the Council are compliant with Section 63(3) of the 2004 Act and taking account of recent case law, it is proposed that the licence application fees are instead applied in two parts to reflect the work involved at each stage. This ensures that in those cases which do not proceed to a full licence the Council do not recover costs for work that has not been completed.
- 2.7 The officer time and resources involved in processing a new application have been reviewed and a revised fee calculated. This is one area in particular where direct and indirect cost-increases have been offset by process efficiencies in elements of the licensing process, resulting in quite variable adjustments.

Mandatory HMO Licensing Public Register

- 2.8 Section 232 of the Housing Act 2004 allows the Council to make a reasonable fee for supplying a person with a copy of the register if requested.
- 2.9 A nominal administration fee for providing the full register in electronic form or hardcopy was introduced in 2019-20. It is proposed that a small increase should now be applied to cover increasing costs associated with printing etc.
- 2.10 An extract from the register will be provided on the Council website free of charge; the charges will only apply to requests for the full register.

Charging for enforcement action

- 2.11 The Housing Act 2004 section 49 gives the local housing authority the power to charge for certain enforcement actions. The provisions are clear that only the costs associated with determining whether enforcement action is necessary, identifying the type of action and the serving of the notice can be recovered.
- 2.12 All charges must be reasonable and there is currently no set maximum fee applicable under the legislation. The amount of officer time involved in each course of action is difficult to predict as each intervention will present a unique set of circumstances. Therefore, the average officer time and resources for carrying out these functions have been calculated and a standard fee is proposed in Annexes 1 and 2.
- 2.13 The Enforcement Guidance to the Housing Health and Safety Rating System (England) Regulations 2005 (SI 2005 No 3208) also advises that in deciding whether to make charges and the level of those charges, the Council should take into account the personal circumstances of the person or persons against whom the enforcement action is being taken. Where discretion is applied this will be determined on an individual basis and recorded.
- 2.14 The charge can be applied to all enforcement action under part one of the Act; we currently apply the charge to Improvement Notices, Prohibition Orders, Emergency Remedial Action, Emergency Prohibition Orders and Demolition Orders.

- 2.15 A demand for payment of the charge will be applied upon service of prohibition orders, emergency remedial action notices and emergency prohibition orders. Demolition orders will also be charged upon service with an addition of the survey cost that is required as part of the serving of the order.
- 2.16 It is not considered appropriate to charge for the service of hazard awareness notices as they are low risk and there is no penalty for non-compliance. It is a simply a formal recommendation of the work to be carried out and it is not placed as a local land charge.
- 2.17 Where an improvement notice is served the charge will be applied for non-compliance only as is consistent with the Council's adopted Enforcement Policy. Taking this approach encourages compliance with notice requirements and will improve housing standards generally.

Immigration housing request visits

- 2.18 Historically applications to live and/or work in the UK have required the local housing authority to undertake an inspection of the proposed living accommodation to check its suitability and ensure there would not be overcrowding. These visits no longer need to be undertaken by the local housing authority as part of an application but occasionally the team will receive a request to carry out a visit and provide a report.
- 2.19 As this is not a statutory requirement it is acceptable for the Council to charge for the provision of this service. The officer time and resources involved in processing a request including the inspection, assessment and follow up report, have been reviewed and a revised fee calculated.

Works in default

- 2.20 As set out by provisions contained in Schedule 3 to Part 3 of the Housing Act 2004, it is proposed that we continue to add interest on all costs associated with carrying out works in default (including the costs of the work itself) where the demand for payment remains unpaid after the initial 28 days. An increase to the administration fee is proposed bringing this to £150 administrative with an interest rate of 3% applied per annum for 22/23 and £155/3% from 23/24.

3.0 Changes to the fees and charges – non-locally set fees

- 3.1 The non-locally set fees applicable to the private sector housing functions are set out in **Annex 3** and below. These are defined and fixed in legislation and cannot be adjusted locally. This legislation has not been amended in relation to fees since the previous fee update in 2020 therefore no changes can be introduced but are set out again for transparency. The Policy in relation to Financial Penalties has been updated as set out below but does not amend the relevant fees in that area.

Financial penalties for Housing Act offences

- 3.2 The Housing and Planning Act 2016 introduced an amendment to the Housing Act 2004 to allow local housing authorities to impose a financial penalty on an

owner of a property where they have failed to comply with provisions under the 2004 Act, as an alternative to prosecution. The maximum penalty is £30,000 and this has not been changed. An updated Policy in relation to the use and calculation of a financial penalty is attached in Annex 4.

Penalty Charges for offences under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- 3.3 The Council has already introduced the maximum penalty of £5,000 with a 25% reduction if payment is made within 14 days of the demand for payment, in accordance with the statement of intent. No changes are therefore proposed.

Financial penalties for breaches of the Electrical Safety Standards

- 3.4 Section 123 of The Housing and Planning Act 2016 makes provision for the local housing authority to impose a financial penalty on an owner of a property where they have failed to comply with the electrical safety standards regulations.
- 3.5 The decision whether to impose a financial penalty (or the level of that penalty) will be made in accordance with the Policy on the Use of Financial Penalties as an Alternative to Prosecution within Private Sector Housing which is in Annex 4. No changes are therefore proposed.

Penalties for offences under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended 2016

- 3.6 The regulations require that private rented domestic properties meet a minimum energy performance rating before they can be rented out. Landlords of certain domestic properties may not grant a new tenancy or continue to let their property if the EPC (energy performance certificate) rating is F or G.
- 3.7 Local authorities have responsibility for enforcing these regulations which means it can be enforced by either Trading Standards Officers or Environmental Health Officers. The local housing authority is the enforcing body for the domestic private rented part of the regulations which sits within Public Health and Housing Options at Mid Devon.
- 3.8 Non-compliance with any notice served under the regulations may result in a financial penalty. The regulations set the maximum amount of penalty that can be administered which the Council has already introduced. No changes are therefore proposed.
- 3.9 In addition to a financial penalty the Council may serve a Publication Penalty. This means that we can publish details of the landlords breach on a publicly accessible part of the PRS Exemptions Register and should remain on the register for a minimum of 12 months. Details are set out in the Policy in Annex 4.

Financial penalties for breaches of a banning order

- 3.10 The Housing and Planning Act 2016 gives provision under section 23 for the Council to impose a financial penalty if a person breaches a banning order.
- 3.11 If the breach continues for more than 6 months an additional financial penalty may be applied for each 6 month period.
- 3.12 The decision whether to impose a financial penalty (or the level of that penalty) will be made in accordance with the Policy in Annex 4 and no changes to this penalty is proposed.

4.0 Recommendations

- 4.1 That Cabinet approve the revised locally-set fees and charges for 2022/23 as set out in Annexes 1 and 2.
- 4.2 That Cabinet approve the revised Policy on the Use of Financial Penalties in Annex 4.

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Circulation of the Report:

Cllr Stuart Penny, Cabinet Member for Housing
Members of the Homes PDG
Leadership Team
Corporate Management Team
Service/Operations Managers
Legal Services

Annex 1 – Locally-Set Fees 2022/23 Private Sector Housing

HMO licensing New Application				
	Fee 2022/23			Previous Fee 2021/22
New licence	Part 1	Part 2	Total fee	
3-5 Units	£785	£262	£1047	£902
6-10 units	£871	£262	£1133	£974
11+ units	£957	£262	£1219	£1046

HMO licensing Renewal			
	Fee 2022/23		Previous Fee 2021/22
Renewal			
3-5 Units	£743		£647
6-10 units	£786		£683
11+ units	£829		£719

HMO Licensing Public Register		
	Charge 2022/23	Previous Charge 2021/22
Request for full register electronically	£6	£5
Request for full register hardcopy	£9	£8

Charging for enforcement action		
	Charge 2022/23	Previous Charge 2021/22
Improvement notice	£660	£553
Prohibition Order	£660	£553
Emergency Remedial Action	£660	£553
Emergency prohibition order	£660	£553
Demolition Order	£660 plus survey fees	£553 plus survey fees

Immigration housing request visits		
	Fee 2022/23	Previous Fee 2021/22
All requests	£410	£330

Works with or without agreement (work in default)		
	Charge 2022/23	Previous Charge 2021/22
Interest on works and associated costs	Cost of the work plus officer time (including travel) plus £150 admin fee. 3% interest per annum added where invoice is un-paid after the initial 28 days.	Cost of the work plus officer time (including travel) plus £100 admin fee. 3% interest per annum added where invoice is un-paid after the initial 28 days.

Annex 2 – Locally-Set Fees 2023/24 Private Sector Housing

HMO licensing New Application						
	Fee 2023/24			Previous fee 2022/23		
New licence	Part 1	Part 2	Total fee	Part 1	Part 2	Total fee
3-5 Units	£816	£270	£1086	£785	£262	£1047
6-10 units	£906	£270	£1176	£871	£262	£1133
11+ units	£995	£270	£1265	£957	£262	£1219

HMO licensing Renewal		
	Fee 2023/24	Previous fee 2022/23
Renewal		
3-5 Units	£768	£743
6-10 units	£813	£786
11+ units	£858	£829

HMO Licensing Public Register		
	Charge 2023/24	Previous Charge 2022/23
Request for full register electronically	£6	£6
Request for full register hardcopy	£9	£9

Charging for enforcement action		
	Charge 2023/24	Previous Charge 2022/23
Improvement notice	£689	£660
Prohibition Order	£689	£660
Emergency Remedial Action	£689	£660
Emergency prohibition order	£689	£660
Demolition Order	£689 plus survey fees	£660 plus survey fees

Immigration housing request visits		
	Fee 2023/24	Previous Fee 2022/23
All requests	£431	£410

Works with or without agreement (work in default)		
	Charge 2023/24	Previous Charge 2022/23
Interest on works and associated costs	Cost of the work plus officer time (including travel) plus £155 admin fee. 3% interest per annum added where invoice is un-paid after the initial 28 days.	Cost of the work plus officer time (including travel) plus £150 admin fee. 3% interest per annum added where invoice is un-paid after the initial 28 days.

Annex 3 – Non-Locally Set Fees Private Sector Housing

Financial (civil) penalties	
	Penalty
Housing Act offences	Financial penalty as alternative to prosecution up to £30,000
Electrical Safety Standards	Up to £30,000
Breach of a banning order	Up to £30,000

Smoke and carbon monoxide alarms	
	Penalty
Failing to comply with a remedial notice	£5000 reducing by 25% if paid within 14 days of demand

Energy Efficiency Regulations		
	Penalty	
Renting out a non-compliant property	Less than three months in breach	£2000 and Publication penalty
	Three months or more in breach	£4000 and Publication penalty
Providing false or misleading information on the Exemption register	£1000 and Publication penalty	
Failing to comply with a compliance notice	£2000 and Publication penalty	

- These penalties are applied to each property where there is a breach to a maximum of £5000 per property
- Publication penalty – some of the details of the financial penalties are published on the publicly accessible part of the PRS Exemptions Register

Annex 4 - Policy on the Use of Financial Penalties (separate document)



**POLICY ON PRIVATE SECTOR HOUSING FEES,
CHARGES AND THE USE OF FINANCIAL
PENALTIES FOR HOUSING ACT OFFENCES**

Version Control Sheet

Title: POLICY ON PRIVATE SECTOR HOUSING FEES, CHARGES AND THE USE OF FINANCIAL PENALTIES FOR HOUSING ACT OFFENCES

Purpose: The purpose of this policy is to ensure compliance with Regulators' Code and the principles of good enforcement. It sets out how fees and charges will be calculated and applied, in relation to the Private Sector Housing enforcement functions and also serves to inform investigating officers and decision-makers of the framework under which the decision to issue civil penalties or charges is made and how they are calculated. The actual fees and charges for any year will be determined and published separately as and when costs are updated.

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Date: **OCTOBER 2022**

Version Number: 4.0

Status: DRAFT

Review Frequency: **Every 5 years or sooner if required**

Next review date: **September 2027**

Document History

This document obtained the following approvals

Title	Date	Version Approved
Policy On The Use Of Financial Penalties For Housing Act Offences Adopted August 2017	August 2017	V2
Policy On The Use Of Financial Penalties For Housing Act Offences (reviewed V3)	May 2021	V3
Policy On The Use Of Financial Penalties For Housing Act Offences (Approved V3)	3 August 2021	V3
Policy On The Use Of Financial Penalties For Housing Act Offences (Reviewed V4)	21 October 2022	V4

INTRODUCTION

- i. Private Sector Housing has a duty to ensure that private accommodation meets minimum standards. In particular there are regulations for the licensing, management and use of houses in multiple occupation (HMO), carbon monoxide detectors and smoke alarms, electrical safety, energy efficiency standards, and hazards within the home.
- ii. Legislation gives the Council the power to charge for certain enforcement actions, and impose financial penalties, as an alternative to prosecution where responsible persons have failed to comply with various provisions.
- iii. This policy sets out in one document, how fees, charges and financial penalties will be calculated and applied, in relation to the Private Sector Housing enforcement functions. **Part one** deals specifically with fees and charges; **Part two** relates to the use of financial penalties; and **Part three** sets out the Statement of Principles by which decisions will be made.

1.0 PART ONE – FEES AND CHARGES

- 1.1 All enforcement activities and relevant fees and charges are set out in compliance with the legislation and the Public Health Services Enforcement Policy number PH/EP/09/20, adopted in January 2021.
- 1.2 Officer time is calculated using full on cost hourly salary rates.
- 1.3 The table of charges applicable at any time will be published on the Council website.

HMO Licensing

- 1.4 Mid Devon currently has 23 licenced HMOs within the District. The size of these HMO's ranges from town houses with 4 letting units through to a large complex property consisting of 23 letting units and 31 occupants.
- 1.5 Section 63(3) of the 2004 Act gives the Council the power to recover all reasonable costs associated with the administration of the HMO licensing function.
- 1.6 The officer time and resources necessary to process new applications and renewals varies greatly depending on factors, such as the size of the property. It is considered appropriate to set an application fee relevant to the number of units proposed on the licence, as follows:

3-5Units; 6-10 units; 11+units.

- 1.7 The application process will be further divided to ensure the Council is acting within its powers (see 1.5). It is considered proportionate to require a percentage of the application fee upfront in order to deliver the necessary activities associated with issuing the licence proposal (under Schedule 5 Part 1 of the Housing Act 2004). If the proposal proceeds to a licence being issued the remainder of the fee would then be applied.

- 1.8 The relevant activities under each part of the process can be defined as follows:

Part 1	Initial	Enquiry phone call, advice, send out application
		Advice on completing the application
	Processing	Application received
		Log application on system
		Check and validate the application and attachments
		Chase for missing documents
		Prepare proposed licence and conditions
		Prepare proposed schedule of works
		Proposal checked by lead officer
		Prepare Proposal Notice
		Service of notice and proposal on applicant and all interested parties
		Receive and consider representations
	Costs	Miscellaneous costs (including printing, postage, publicity to assist compliance)
Part 2	Issue	Prepare changes to proposed licence, conditions and schedule of works
		Service of notice and further proposal
		Receive and consider further representation
		Service of Notice and full licence
	Costs	Miscellaneous costs (including printing, postage, publicity to assist compliance)

- 1.9 The renewal of an existing licence will be processed in a similar way although there should be no split of the licence fee. The applicant will already be aware that their property is licensable and have the majority of the necessary documentation to proceed. The full fee should be charged upfront.

Mandatory HMO Licensing Public Register

- 1.10 Section 232 of the Housing Act 2004 allows the Council to make a reasonable fee for supplying a person with a copy of the register if requested.

- 1.11 A nominal standard administration fee will be charged for providing a copy of the full register in electronic form or hardcopy. The fee is intended to recover costs associated with officer time and printing, postage etc.
- 1.12 An extract from the register will be provided on the Council website free of charge.

Immigration housing request visits

- 1.13 Historically applications to live and/or work in the UK have required the local housing authority to undertake an inspection of the proposed living accommodation to check its suitability and ensure there would not be overcrowding. These visits no longer need to be undertaken by the local housing authority as part of an application but occasionally the team will receive a request to carry out a visit and provide a report.
- 1.14 The Council will charge for the provision of this service to recover costs including the officer time and resources involved in processing a request, inspection of the property, subsequent assessment and providing a follow up report.

Carrying out works with or without agreement (work in default)

- 1.15 Provisions contained in Schedule 3 of the Housing Act 2004 gives powers to the local authority to carry out works itself, either by agreement of the responsible person or as a result of non-compliance with a notice. Part 3 allows the Council to recover expenses reasonably incurred by taking the action including the cost of the works themselves.
- 1.16 An administrative fee will be charged in all cases to cover costs for arranging works and service of the appropriate notices.
- 1.17 The costs will be recovered by formal demand for payment and accompanying invoice.
- 1.18. Where the demand remains unpaid after the initial 28 days, interest on all costs associated with carrying out works, including the costs of the work itself, will be applied at 3% per annum.

Charging for enforcement action

- 1.19 The Housing Act 2004 section 49 gives the local housing authority the power to charge for certain enforcement actions. The provisions are clear that only the costs associated with determining whether enforcement action is necessary, identifying the type of action and the serving of the notice can be recovered.

Setting the fee

- 1.20 All charges must be reasonable and there is currently no set maximum fee applicable under the legislation.
- 1.21 The amount of officer time involved in each course of action is difficult to predict as each intervention will present a unique set of circumstances. Therefore, the Council will apply a standard fee incorporating average officer time and resources for carrying out the functions described in 1.19.

Applying the fee

- 1.22 The fee will be applied to all enforcement action under Part one of the Act; Improvement Notices, Prohibition Orders, Emergency Remedial Action, Emergency Prohibition Orders and Demolition Orders.
- 1.23 The Enforcement Guidance to the Housing Health and Safety Rating System (England) Regulations 2005 (SI 2005 No 3208) advises that in deciding whether to make charges and the level of those charges, the Council should take into account the personal circumstances of the person or persons against whom the enforcement action is being taken.
- 1.24 Where discretion is considered this will be determined on an individual basis. The case officer will record the reasons why the fee should be reduced or waived on a decision form which will be reviewed and decided by the Operations Manager.
- 1.25 A charge will not be applied where a hazard awareness notice is considered the most appropriate course of action for low risk hazards. It is a formal recommendation of the work to be carried out and there is no penalty for non-compliance or local land charge.

Recovering the fee

- 1.26 Where an Improvement Notice is served a demand for payment of the fee will only be applied in the case of non-compliance. Taking this approach encourages compliance with notice requirements and will improve housing standards generally.
- 1.27 A demand for payment of the fee will be applied upon service of prohibition orders, emergency remedial action notices and emergency prohibition orders.
- 1.28 Demolition orders will be charged the fee upon service. The demand will also include the professional survey cost that is incurred as part of the serving of the order.

2.0 PART TWO – FINANCIAL PENALTIES (CIVIL PENALTIES)

Penalty Charges for offences under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended 2022

- 2.1 Part 4 of the regulations allows a penalty charge of up to £5,000 to be applied within 6 weeks of non-compliance with a remedial notice served under the regulations.
- 2.2 The Council will follow its Statement of Principles, set out in Part 3 and Appendix 2 of this document, when determining the fine. A 25% reduction will be applied if payment is made within 14 days of the demand for payment, in accordance with the statement of intent.
- 2.3 A penalty charge notice will be issued with the demand, where the recipient can then submit a written request for a review of the penalty imposed. Any such review will be considered and a decision made based on the information supplied and further scrutiny of the statement of principles.
- 2.4 The regulations and guidance are clear and do not allow for the recovery of any costs incurred if the Council is required to carry out remedial works.

Financial penalties for breaches of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

- 2.5 Section 123 of The Housing and Planning Act 2016 makes provision for the local housing authority to impose a financial penalty of up to £30,000 on an owner of a property where they have failed to comply with a remedial notice served under the electrical safety standards regulations.
- 2.6 The decision whether to impose a financial penalty and the level of that penalty, will be made in accordance with Part 3 of this document. However, it should be noted that the absence of the Electrical Installation Condition Report (EICR) does not automatically indicate a high risk to occupiers. It will be appropriate to consider other information, such as an assessment under the Housing Act 2004 Health Safety Rating System (HHSRS) to inform the assessment of risk when determining the level of fine. This could result in a significantly lower (or higher) level of fine than the table at 3.6 indicates.
- 2.7 Section 8 of the electrical safety standards regulations also allows for the Council to recover its costs in taking any remedial action in the case of a breach of a remedial notice served under the regulations.

- 2.8 Any representations made by a private landlord under Schedule 2 of the regulations will be considered and a decision made based on the information supplied and further scrutiny of the Council's Statement of Principles.

Penalties for offences under The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended 2016

- 2.9 The regulations require that private rented domestic properties meet a minimum energy performance rating before they can be rented out. Landlords of certain domestic properties may not grant a new tenancy or continue to let their property if the EPC (energy performance certificate) rating is F or G.
- 2.10 Local authorities have responsibility for enforcing these regulations which means it can be enforced by either Trading Standards Officers or Environmental Health Officers. The local housing authority is the enforcing body for the domestic private rented part of the regulations which sits within Public Health and Housing Options at the Council, and is the responsibility of authorised officers within the service.
- 2.11 Non-compliance with any notice served under the regulations allows for financial penalties to be applied. The regulations set the amounts for maximum penalties in 4 individual categories up to a maximum of £5000. The maximum fines for contraventions are set out in Appendix 1.
- 2.12 A financial penalty may be served up to 18 months after the breach and so the landlord may be served a notice after they cease to be the landlord of the property.
- 2.13 A landlord may ask for a review of the decision to serve a penalty notice. Any such review will be considered and a decision made based on the information supplied and further scrutiny of the Council's Statement of Principles.
- 2.14 In addition to a financial penalty the Council may serve a Publication Penalty. This means that we can publish details of the landlords breach on a publicly accessible part of the PRS Exemptions Register and should remain on the register for a minimum of 12 months.

Financial penalties for breaches of a banning order

- 2.15 The Housing and Planning Act 2016 gives provision under section 23 for the Council to impose a financial penalty if a person breaches a banning order.
- 2.16 If the breach continues for more than 6 months an additional financial penalty may be applied for each 6 month period.

- 2.17 The decision whether to impose a financial penalty (or the level of that penalty) will be made in accordance with the Council's Statement of Principles.

Financial penalties for Housing Act 2004 offences

- 2.18 The Housing and Planning Act 2016 introduced an amendment to the Housing Act 2004 to allow local housing authorities to impose a financial penalty on an owner of a property where they have failed to comply with provisions under the 2004 Act, as an alternative to prosecution. The maximum penalty is £30,000.
- 2.19 The offences include:
- Failing to comply with an Improvement Notice (section 30)
 - Offences in relation to licensing of Houses in Multiple Occupation (section 72)
 - Offences in relation to licensing of houses under part 3 of the Act (selective Licensing) (section 95)
 - Offences in relation to the contravention of an overcrowding notice (section 139)
 - Failure to comply with management regulations in respect of House in Multiple Occupation (section 234)
- 2.20 A financial penalty can only be imposed as an alternative to prosecution. The legislation does not permit the Council to impose a financial penalty and prosecute for the same offence. If a person has been convicted or is currently being prosecuted the Council cannot impose a financial penalty in respect of the same offence. Similarly, if a financial penalty has been imposed, a person cannot then be convicted of an offence for the same conduct and the Council cannot make an application for a banning order.

Policy approach and decision-making

- 2.21 The Council is required to have a policy in place that details when to prosecute and when to consider a financial penalty. Although this is partially covered by the current Enforcement Policy PH/EP/09/20 and Appendix J (Supplementary Enforcement Policy Issues - Private Sector Housing) full details of the Council's decision making process in relation to this is set out in the following sections.
- 2.22 In line with the Enforcement Policy and the formal guidance on civil penalties under the Housing and Planning Act (DCLG April 2017) prosecution may be considered the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past. However, that does not mean civil penalties should not be used in cases where serious offences have been committed rather than prosecution, is the most appropriate and effective sanction in a particular case.

- 2.23 The decision on whether to use civil penalty powers (and to what extent) or to seek a prosecution will be made by a service manager or other appropriate senior manager in conjunction with Legal Services. It should be proportionate and the following factors considered:
- a) **What outcome we are trying to achieve** – e.g. set an example, get the works done or a deterrent to committing future offences (a civil penalty will not be in the public domain unlike a prosecution);
 - b) **Severity of the offence** – is prosecution a better option based on the significance of the offence and the impact it has had;
 - c) **Type of property and its occupiers** – are the occupiers particularly vulnerable.
- 2.24 Where the Council decides to prosecute, we will consider the scope for working together with other local housing authorities if a landlord has committed breaches across more than one local authority area.
- 2.25 Where a financial penalty is considered the most appropriate course of action the Council must provide guidance on how the fine levels will be set. Part 3 of this document provides a fine setting methodology defining a statement of principles. **Each case will be assessed on an individual basis using these principles and framework as a guide.**

Burden of proof

- 2.26 The same criminal burden of proof is required for a financial penalty as for a prosecution. This means that before formal action is taken the Council must be satisfied that if there was a prosecution there would be a realistic prospect of conviction.
- 2.27 The Council must determine beyond reasonable doubt that the offence has been committed. In the case of a financial penalty this evidence would be required if an appeal is made against the decision.
- 2.28 As also outlined in the Enforcement Policy, the Council must also consult the Crown Prosecution Service Code for Crown Prosecutors when determining whether to take action. There are two stages to this code:
- The evidential test; and
 - The public interest test.

Procedure and appeals

- 2.29 The procedure for imposing a financial penalty is set out at Schedule 13A of the Housing Act 2004 and summarised in the DCLG guidance. There is no scope

for the Council to deviate from this procedure and therefore it is not duplicated for the purposes of this policy.

- 2.30 At any time, if circumstances dictate, the Council may withdraw a notice or reduce the amount specified in a notice in relation to a civil penalty.
- 2.31 A landlord receiving the final notice of a civil penalty may appeal to the First-tier Tribunal against the decision to impose a penalty or the penalty amount. The appeal has the effect of suspending the notice and requirement to pay until determined.

Enforcement and other consequences

- 2.32 Where the landlord or property agent fails to pay a financial penalty, the Council should refer the case to the county court for an order of that Court. If necessary, the Council should use county court bailiffs to enforce the order and recover the debt.
- 2.33 The Council's powers to carry out works in default under the Housing Act 2004 are unaffected by the civil penalty provisions.
- 2.34 If a landlord receives a financial penalty, that fact can be taken into account if considering whether the landlord is a fit and proper person to be the licence holder for a House in Multiple Occupation (HMO) or any other property subject to licensing.
- 2.35 Where a landlord receives two or more civil penalties over a 12 month period, the Council will include that person's details in the database of rogue landlords and property agents brought in by the Housing and Planning Act 2016. While it is not a compulsory requirement, under the DCLG guidance councils are strongly encouraged to do so. An entry must be maintained for at least 2-years. It is the responsibility of local authorities to manage the information on the database and ensure it is current. This will help ensure that other councils are made aware that formal action has been taken against the landlord.

3.0 PART THREE – FINANCIAL PENALTIES (PRINCIPLES & METHODOLOGY)

- 3.1 In setting a financial penalty level the Council will consider the following factors:
- Culpability and track record of the offender;
 - Severity of the offence;
 - The harm caused to the tenant;
 - Proportionate punishment of the offender;
 - Deterring the offender from repeating the offence;
 - Deterring others from committing similar offences;

- Removing any financial benefit the offender may have obtained as a result of committing the offence;
- Assessment of assets and income.

Determining the offence category – Culpability

3.2 An assessment of culpability can be assessed as follows:

- **Deliberate** – An intentional breach by a landlord or property agent or flagrant disregard for the law. For example, by failing to comply with a notice or regulations.
- **Reckless** – An actual foresight of, or wilful blindness to the risk of offending, but decides to take the risk nevertheless. For example, failing to comply with a strict liability in the HMO regulations.
- **Negligent** – The failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding the offence. For example, partial compliance with a schedule of work to an enforcement notice but failure to fully comply with all schedule items.
- **Low or no culpability** – The offence committed has some fault on the part of the landlord or property agent but there are other circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence.

Determining the level of fine – Severity

3.3 The following should be taken into account when considering severity:

- **Level one** – Major impact – Serious and substantial risk, including imminent risk, to the health and safety of the occupiers and/or community as a result of the offence, with potentially life threatening results or loss of major limbs. Housing defects that may present such a risk maybe associated with electrical hazards, carbon monoxide exposure, fire safety risks, risk of explosion or structural collapse, exposure to asbestos or radiation. This is not an exhaustive list and also includes property management failings that could lead to a major risk to the occupiers/neighbours and/or community. Where the risk has been realised the fine is likely to be greater or there may be a decision to prosecute as an alternative.
- **Level two** - Serious Impact – Serious risks to the health and safety of the occupiers and/or immediate neighbours, leading to serious injury or disease requiring prolonged treatment and/or hospital admission. Housing defects that may present such a risk maybe associated with falls, lack of heating, collision and entrapment, any other hazards or management issues that could lead to a serious risk to the occupiers and immediate neighbours.

- **Level three** – Minor impact – Risk of injury or disease to the occupiers resulting in treatment at the doctors. Examples of housing defects that could present such a risk include damp, mould or hygiene issues and any other hazards or management issues that could lead to a risk to the occupiers.

3.4 Table 3.6 provides an indication of the level of fine that is likely to be appropriate and serves as a starting point for any decision. In order for officers and landlords to understand how this assessment could work, the asset assessment grid has been based on the number of properties either being managed or owned by the landlord or agent. The actual amount of fine could change dramatically from the published amounts depending on the outcome of the assessment.

3.5 As part of the considerations mentioned in 3.1 above, the Council should assess all assets including **any** income of the landlord or letting agent and **not just rental income**.

Financial Penalties – Guidance on level of fine

3.6 The table below provides a guide to setting the level of fine to be applied.

Type of landlord/agent	Category of offence	Starting point for penalty		
		level 1 – Major impact	Level 2 – Serious impact	Level 3 – Minor impact
Landlord/Property agent with 1-10 properties (income/asset value of up to approx. £38K per annum/£750K)	Deliberate	£12,500	£10,000	£7,500
	Reckless	£6,500	£5,000	£3,500
	Negligent	£3,000	£2,500	£1,500
	Low culpability	£1,250	£1,000	£750
Landlord/Property agent with 11 – 30 properties (income/asset value of up to approx. £100K per annum/£2million)	Deliberate	£22,500	£20,000	£17,500
	Reckless	£17,500	£15,000	£12,500
	Negligent	£12,500	£10,000	£7,500
	Low culpability	£7,500	£5,000	£2,500
Landlord/Property agent with 31+ properties (income/asset value in excess of approx. £100K per annum/£2million)	Deliberate	£30,000	£25,000	£22,500
	Reckless	£22,500	£20,000	£17,500
	Negligent	£17,500	£15,000	£12,500
	Low culpability	£12,500	£10,000	£7,500

Appendix 1

Maximum Financial penalty amounts

Financial (civil) penalties	
	Penalty
Housing Act offences	Financial penalty as alternative to prosecution up to £30,000
Electrical Safety Standards	Up to £30,000
Breach of a banning order	Up to £30,000

Smoke and carbon monoxide alarms	
	Penalty
Failing to comply with a remedial notice	£5000 reducing by 25% if paid within 14 days of demand

Energy Efficiency Regulations		
	Penalty	
Renting out a non-compliant property	Less than three months in breach	£2000 and Publication penalty
	Three months or more in breach	£4000 and Publication penalty
Providing false or misleading information on the Exemption register	£1000 and Publication penalty	
Failing to comply with a compliance notice	£2000 and Publication penalty	

- These penalties are applied to each property where there is a breach to a maximum of £5000 per property
- Publication penalty – some of the details of the financial penalties are published on the publicly accessible part of the PRS Exemptions Register

Works with or without agreement (work in default)	
	Charge
Interest on works and associated costs	Cost of the work plus officer time (including travel) plus £100 admin fee. 3% interest per annum added where invoice is un-paid after the initial 28 days.

Appendix 2

Statement of Principles

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015



Under the Smoke and Carbon Monoxide Alarm (England) Regulations 2015, Mid Devon District Council is required to publish this Statement of Principles to ensure landlords are aware of the manner in which a civil penalty under these regulations will be calculated.

The Council has determined that the following principles will be followed:

Financial penalties	
	Penalty
Smoke and carbon monoxide alarm (England) Regulations 2015	£5000 reducing by 25% if paid within 14 days of demand for non-compliance of the remedial notice

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 came into force on the 1st October 2015.

The regulations require a “relevant landlord” of a “specified tenancy” of residential premises to ensure that when the premises are occupied under the tenancy:

- A smoke alarm is installed on each storey of the premises on which there is a room used wholly or partly as living accommodation;
- A carbon monoxide alarm is installed in any room which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance (e.g. a coal fire, wood burning stove)

The landlord must ensure the alarms are in proper working order at the start of any new tenancy.

If the local authority is satisfied that a landlord has breached the regulations and has failed to comply with a remedial notice then the authority must arrange for remedial action to be taken. The Council can then impose a civil penalty as determined in the table above.

For further information please refer to the regulations at

<http://www.legislation.gov.uk/id/ukSI/2015/1693>

Separate general guidance on the requirement of the regulations is available at:
www.gov.uk/government/publications/smoke-and-carbon-monoxide-alarms-explanatory-booklet-for-landlords

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HOMES POLICY DEVELOPMENT GROUP 15 NOVEMBER 2022

HOUSING REVENUE ACCOUNT (HRA) FEES AND CHARGES 2022/23

Cabinet Member(s): Cllr Stuart Penny, Cabinet Member for Housing

Responsible Officer: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Reason for Report and Recommendation: To provide Members with the revised fees and charges for the discretionary functions provided under the HRA. The Council has not increased the fees and charges for these services for some years and they require updating.

Recommendations:

1. That Cabinet approve the revised discretionary fees and charges for 2022/23 as set out in Annexes 1, 2 and 3
2. That Cabinet approve an annual Consumer Prices Index (CPI) inflation adjustment (within the range 2 – 10%) for discretionary fees and charges to be applied on the 1st April every year (in addition to the in-year recommendations set out in Annexes 1, 2 and 3)

Financial Implications: Work undertaken by Mid Devon Housing (MDH) and other services on behalf of MDH is funded through the Housing Revenue Account (HRA). Fees and charges relating to discretionary, largely administrative activity have not been increased for some years due to other priorities and the relatively low level of income/cost associated. Nonetheless, these fees and charges no longer reflect the true cost of the administration associated with this work and require updating.

Budget and Policy Framework: The HRA is ring fenced and therefore, there is a need to maximise income for discretionary activity requested by owner occupiers and other residents on our estates, which is not directly related to our statutory housing management or building services functions, in order to avoid disadvantaging our tenants.

Legal Implications: There are no major legal implications and these fees relate to discretionary services or charges and do not relate to the tenant or leaseholder rents which are controlled by statutory and other provisions. Debt recovery associated with the costs arising from discretionary work is undertaken in line with the Court Debt Recovery Protocol.

Risk Assessment: A failure to update the relevant fees and charges could mean that tenants effectively have to subsidise services requested by home owners and other residents on our estates. Furthermore, failure to manage discretionary service requests in a timely manner could result in reputational risk for MDH.

Equality Impact Assessment: Having set fees and charges applicable to the service being provided ensures that MDH does not disadvantage any customer with protected characteristics, or who belong to any specific groups.

Relationship to Corporate Plan: This report relates to the homes and community elements for the Corporate Plan priorities.

Impact on Climate Change: None directly relevant to this report.

1.0 Introduction

- 1.1 MDH has a number of services for which fees are permitted to be charged in order to offset the costs involved. The Government requires that local authorities should raise revenue wherever possible to cover costs of discretionary services.
- 1.2 The majority of this work is attributed to requests made by home owners or private landlords and therefore MDH must ensure that the costs of administration are recovered and not subsidised by the HRA.
- 1.3 Each discretionary activity undertaken by MDH, where a fee or charge is applicable, has been reviewed. Where officer time is included within a fee or charge then it is done so purely on a cost-recovery basis. The previous fees are also set out in **Annex 1** and **2** alongside the suggested increases, for the purposes of comparison.
- 1.4 The fees and charges were last updated in 2015/16. It is therefore seven years since any existing fees and charges were reviewed. The inflation change and other service costs from 2015 up to 2022 have been modelled to ensure full recovery, which equates to a 23% increase in charges since 2015. Subject to the recommendations, it is proposed that the updated fees and charges, once agreed, come into effect from the date of the Cabinet decision (with allowance for call-in). These increases are shown in **Annex 1**.
- 1.5 In some cases, tenants are recharged for work. This may be work undertaken through the discretionary handyman service, or to make good tenant damage. Alternatively, it could be because the tenant had locked themselves out of their home and a lock change was required to enable them to get back in. More information is provided in **Annex 2**.
- 1.6 In most cases, rechargeable work is undertaken in line with the charges published by the National Housing Federation in their Schedule of Rates. There will be some instances, though, where the cost of the recharge is calculated manually to take account of the cost of materials. These material costs are subject to the vagaries of the market and the charges made in respect of these are levied simply to recoup costs.
- 1.7 MDH also makes some charges in respect of administration associated with billing for sewage charges and service charges. Those householders connected to septic tanks or sewage treatment plants owned by MDH are required to pay for this service and a minimum of £30.00 or a total of 15% of the bill (whichever is larger) is levied on top of the sum being invoiced. For service charges, leaseholders are expected to pay an additional 15% of the sum being charged in respect of administration.

1.8 MDH is proposing to re-commence the rental of the common room at Westfield Road to local community groups. These were halted during the pandemic and since then all relevant procedures have been updated, including risk assessments relating to health and safety. There are no plans to increase these charges at this time due to the need to kick-start and increase usage of the room and they will be reviewed again in 12-months. Officers have undertaken a further review of charges for hall hire locally and our current charges are competitive therefore over-inflating the cost of the room hire could be counter-productive and encourage potential hirers to look elsewhere. The charges are listed in **Annex 3**.

1.9 The revised fees and charges will be made published on the Council's website to ensure openness and transparency.

2.0 Changes to the fees and charges – discretionary fees

2.1 One recommended option has been provided for consideration by Members and can be seen in Annex 1. Alternative, lower charge options were initially considered (for example a 3% increase) but these failed to address the historic under charge and did not represent full recovery for what are wholly discretionary fees. The current fees and charges are shown for comparison purposes.

2.2 Officers have looked at the schedule of charges and feel that it is no longer appropriate to charge the level of fee set out in respect of Right-to-Buy plans. Since the original £50.00 fee was introduced you can now obtain copies of documents from the Land Registry online for the sum of £6.00 (typically subject to annual inflationary increases), consequently the current fee cannot be justified and may be why it has attracted limited uptake in recent years. Instead, we are recommending an £8.00 charge plus VAT should a customer wish to utilise MDH to obtain plans on their behalf, potentially as part of a wider transaction.

2.3 No increase is proposed to the fee for missed visits as a balance to continue to reduce the level of missed visits whilst maximising recovery rates where a charge is subsequently made. Wasted visits will continue to be calculated against the current, in-year hourly rate which is specific to the type of visit and the amount of time wasted.

2.4 Going forward, it is recommended that all discretionary fees and charges be adjusted by CPI inflation on the 1st April every year. It proposed that in order to ensure exceptional index rates are reviewed before the implementation of the annual increase then an adjustment will only be applied automatically where the index rate is between 2 – 10%. Any proposal to introduce an adjustment above or below this range will require a specific decision of Cabinet.

3.0 Recommendations

3.1 That Cabinet approve the revised discretionary fees and charges for 2022/23 as set out in Annexes 1, 2 and 3.

- 3.2 That Cabinet approve an annual CPI inflation adjustment (within the range 2 – 10%) for discretionary fees and charges to be applied on the 1st April every year (in addition to the in-year recommendations set out in Annexes 1, 2 and 3).

Contact for more Information: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing snewcombe@middevon.gov.uk or Mrs Claire Fry, Operations Manager for Housing Management cfry@middevon.gov.uk

Circulation of the Report:

Cllr Stuart Penny, Cabinet Member for Housing
Members of the Homes PDG
Leadership Team
Corporate Management Team
Service/Operations Managers
Legal Services

Annex 1 – HRA General Discretionary Fees and Charges (12% Increase)

Service	2015				2022 (recommended)			
	Fee	Vat rate	VAT	Total (inc Vat)	Fee	Vat rate	VAT	Total (inc Vat)
Rent Reference	£ 50.00	20%	£ 10.00	£ 60.00	£ 61.67	20%	£ 12.33	£ 74.00
ATO visit	£ 50.00	20%	£ 10.00	£ 60.00	£ 61.67	20%	£ 12.33	£ 74.00
Copy of offer document	£ 20.00	20%	£ 4.00	£ 24.00	£ 22.50	20%	£ 4.50	£ 27.00
Copy of RTB plans following sale (coloured)	£ 50.00	20%	£ 10.00	£ 60.00	£ 8.00	20%	£ 1.60	£ 9.60

CPI increase from 2015 (using 2015 as baseline)

Annex 2: HRA Charges Relating to Rechargeable Repairs
(no increase is proposed in relation to these charges at the present time)

Service	Fee	VAT rate	VAT	Total (incl VAT)	Comments
Missed visit fee	£ 20.00	N/A	N/A	£ 20.00	
Wasted visit fee					<p>Cost of labour is recharged at an hourly rate, or equivalent emergency rate uplift. Wasted visits could include:</p> <ul style="list-style-type: none"> • Where tenants call to report something as an emergency that is clearly not an emergency • Where tenants report a repair which turns out to be a tenant responsibility • Where repairs are reported as 'fair wear and tear' but in fact have been caused by tenant action
Light Bulb/ Tube Changes					
Single fluorescent tube	£ 24.13	20%	£ 4.83	£ 28.96	
2d fluorescent tube	£		£	£	

	25.00	20%	5.00	30.00	
Standard light bulb charge	£ 20.42	20%	£ 4.08	£ 24.50	
Gas cooker connection (gas already at cooker point)	£ 75.00	20%	£ 15.00	£ 90.00	
Electric cooker connection (less than 8.5kw)	£ 48.00	20%	£ 9.60	£ 57.60	
WC seat	£ 29.84	20%	£ 5.97	£ 35.81	

Annex 3: HRA Charges for Use of Mid Devon Housing Common Room at Westfield Road

Hours	Charge from 2022 £
1 hour	10.00
1.5 hours	15.00
2.0 hours	20.00
2.5 hours	25.00
3.0 hours	30.00
3.5 hours	35.00
All Day	50.00

* If the booking event is attended by at least 50% Council tenants there will be no charge, an attendance sheet will need to be provided before or after the event.

HOMES POLICY DEVELOPMENT GROUP 15 NOVEMBER 2022

MID DEVON HOUSING DRAFT POLICY RELATING TO TENANT USE OF CLOSED CIRCUIT TV (CCTV) & CAMERA DOORBELLS

Cabinet Member(s): Cllr Stuart Penny, Cabinet Member for Housing

Responsible Officer: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Reason for Report & Recommendation: A new draft policy setting out the conditions associated with the granting of permission for tenants to install closed circuit television systems (CCTV) and camera doorbells in or on their property is presented to Members. This has been developed on the basis that such a policy would provide greater clarity to stakeholders and ensure that those tenants fitting such systems were doing so lawfully, recognising the obligations on tenants to ensure compliance.

Recommendation: The PDG recommends that Cabinet recommend to Council the adoption of the Tenant CCTV and Camera Doorbell Policy attached in Annex 1.

Financial Implications: The activity of the landlord service, known as Mid Devon Housing (MDH) is accounted for within the Housing Revenue Account (HRA). The HRA is ring fenced and subject to specific financial controls.

Budget and Policy Framework: There are no direct budget implications arising from this policy proposal. The policy framework in respect of the Regulator for Social Housing is set out in section 1 of this report.

Legal Implications: The Housing Act 1985 applies with regard to the management of Council housing. The relationship with tenants is set out in our Tenancy Agreement. This details the rights and responsibilities of both parties including those obligations relating to repairs. The tenancy agreement also takes account of other relevant legislation including that which amended the original Housing Act, the Localism Act 2011 and the Anti-Social Behaviour, Crime and Policing Act 2014.

Following publication of the Social Housing White Paper in late 2020, the Social Housing Regulation Bill is currently on its way through Parliament and, once implemented, this will impact the regulatory framework for social housing. One aim of the new legislation is to ensure that providers of social housing, such as the Council, keep estates and neighbourhoods safe and clean. The existing Neighbourhood and Community Standard which forms part of the regulatory framework for social housing is relevant to discussion about tenants' own CCTV and camera doorbell.

Risk Assessment: The Council has approximately 3,000 homes in management. Failure to provide an effective housing management service has the potential to result in failure to meet legal and statutory obligations. There is a regulatory requirement to maintain safe and clean estates and neighbourhoods. Partner agencies, including the Police, sometimes suggest that tenants install their own CCTV systems or camera

doorbells and failure to implement a policy relating to this could result in tenants doing so in such a way as to mean that they are inadvertently breaking the law resulting in heightened community tensions.

Equality Impact Assessment: There is a suite of housing related policies. The use of these helps to ensure that service delivery is consistent and fair. These are subject to ongoing review with the aim of more closely aligning them with the regulatory standards as set out in the Regulatory Framework for Social Housing. There is a regulatory requirement for registered providers of social housing to tailor their service to meet the needs of the tenants and diversity data is requested from tenants at sign up to enable compliance to be monitored.

Relationship to Corporate Plan: A stated aim of the Council is to deliver sustainable communities.

Impact on Climate Change: None directly relevant to this report.

1.0 Introduction

- 1.1 MDH, as a registered provider of social housing (RP), is subject to the provisions of the regulatory framework for social housing, which is issued by the Regulator for Social Housing (RSH).
- 1.2 The Neighbourhood and Community Standard is one of the consumer standards and is therefore applicable to the work of MDH. This Standard requires RPs to keep the neighbourhood and communal areas associated with the homes which they own clean and safe. Landlords are expected to work in partnership with their tenants and other providers and public bodies where it is effective to do so. Furthermore, RPs are required to work in partnership with other agencies and to tackle anti-social behaviour in the neighbourhoods where they own homes.
- 1.3 The Neighbourhood and Community Standard also sets out some specific expectations associated with the management of anti-social behaviour. In their work to prevent and address this, RPs are required to demonstrate, amongst other things, that tenants are made aware of their responsibilities and rights in relation to anti-social behaviour; that a strong focus exists on preventative measures tailored towards the needs of tenants and their families; and provision of support to victims and witnesses.
- 1.4 In the Charter for Social Housing Tenants, issued as a White Paper in November 2020, the Government set out their aim to provide all social housing tenants with a good quality home and neighbourhood to live in. The Social Housing Regulation Bill which is currently being debated in Parliament, will, when it is implemented, address the concerns of tenants as they relate to neighbourhood management. There is a stated intention to ensure that estates and neighbourhoods are safe and clean thereby improving the quality of them and providing support for the wellbeing of those resident in them.

2.0 The New MDH Draft Policy Relating to Tenant Use of CCTV and Camera Doorbells

- 2.1 The aims of this new MDH draft policy relating to tenant use of CCTV and camera doorbells are numerous. Fundamentally, it has been written to support the provision of safe, secure and sustainable neighbourhoods and communities. However, it has also been designed to improve tenancy sustainment, and to provide a decision-making framework for reference by staff, Members of the Council and tenants setting out how any requests to install closed circuit TV (CCTV) systems or camera doorbells will be considered and approved.
- 2.2 There is sometimes a tension between the needs and wishes of someone who wishes to fit CCTV and/ or a camera doorbell, and those of neighbours who may be concerned about the intrusiveness of such an installation. Furthermore, MDH recognises that CCTV system and camera doorbells can result in some households feeling more secure, especially where they have experienced crime including violence, domestic abuse or anti-social behaviour.
- 2.3 MDH is also aware that in some cases, other agencies, including the Police, may suggest to a tenant that they may like to consider fitting either of these. In some cases, this may be with the explicit aim of collecting images which will support legal action against perpetrators of crime.
- 2.4 This new draft policy, if adopted, will sit in the policy framework relating to the Neighbourhood and Community Standard. This framework is currently under review and due to be considered by the Homes Policy Development Group at the meeting in January 2023.
- 2.5 The new draft policy clearly sets out the factors which may be considered as part of the decision as to whether or not permission to install a new CCTV system or camera doorbell will be granted. There are legal obligations on any tenant installing a permitted system which are not those of the Council but are set out clearly within the policy for information.
- 2.6 Members will note that tenants are required, in line with the new draft policy, to apply for permission to install CCTV or a camera doorbell. Cases will be reviewed and determined on a case by case basis. If permission was not sought, the tenant will be required to remove the installation although it may be possible to apply for retrospective permission at the discretion of MDH. During the period when any such request is being considered, all cameras must be disabled.
- 2.7 Frontline housing management staff (for example Neighbourhood Officers) will be required to review any requests for permission received and to make recommendations to the appropriate Operations Manager or Corporate Manager who will be required to make the final decision. The decision-making by this senior officer must be supported by a written justification, for future reference and ensure records of all systems in use are retained.

- 2.8 The new draft policy sets out arrangements for monitoring and review of any installations of CCTV or camera doorbells by tenants.
- 2.9 The new draft policy also provides links to information about the law and tenant's responsibilities with regard to data protection laws including cases where the CCTV or camera doorbell will capture images of parts of a neighbouring property or communal areas. It will therefore provide a point of reference for those considering seeking permission to install CCTV or a camera doorbell. Nonetheless, this is just summarising and signposting tenants to current information on what remains a legal obligation on the tenant.
- 2.10 Despite the obligation being on the tenant to comply with relevant legislation, if MDH becomes aware that a tenant is failing to meet all relevant legal requirement it would be authorised to require the tenant to remove the CCTV equipment or the camera doorbell under the policy provisions.
- 2.11 Those concerned about a particular installation and/ or about being filmed by a tenant's CCTV or camera doorbell are encouraged to speak to the tenant responsible in the first instance. If having done so where appropriate, they remain dissatisfied, in line with the new draft policy, they are advised to make a complaint to the Council and should also consider making a complaint to the Information Commissioner's Office (ICO) and/or the Police. This is because such issues are considered to be a private and civil matter.
- 2.12 The Council will consider any complaints made to the Council in relation to CCTV and camera doorbells only if such complaints amount to instances of nuisance, annoyance and/or harassment.

3.0 Recommendation

- 3.1 As a new policy, that the PDG recommends that Cabinet recommend to Council the adoption of the Tenant CCTV and Camera Doorbell Policy attached in Annex 1.

Contact for more Information: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing, snewcombe@middevon.gov.uk

Circulation of the Report:

Cllr Stuart Penny, Cabinet Member for Housing
Members of the Homes PDG
Leadership Team
Corporate Management Team
Service/Operations Managers
Legal Services

Further information:

Regulatory framework for social housing:

<https://www.gov.uk/guidance/regulatory-standards-procedures-and-guidance#regulatory-standards-and-approach>

Annex 1



POLICY FOR TENANT USE OF CCTV AND CAMERA DOORBELLS

1. Introduction

- 1.1 Mid Devon Housing (MDH) is part of Mid Devon District Council (the Council). It is responsible for the Council's housing stock and believes that everyone has the right to lawfully enjoy their home and local neighbourhood. It is committed to developing sustainable communities and helping tenants to retain safe and secure tenancies.
- 1.2 MDH recognises that some of our tenants will feel more secure if they install external Close Circuit Television (CCTV) or camera doorbells in order to deter crime or if they have been experiencing problems of persistent anti-social behaviour or other crime. Some of our tenants may have been advised to install these items for these purposes by other agencies including for the purposes of providing evidence of crime.
- 1.3 MDH also recognises that some neighbours may find the installation of a CCTV camera or camera doorbell that covers (or seems to cover) their property to be a breach of their privacy.

2. Policy Aims and Objectives

- 2.1 This policy applies to MDH tenants who may wish to install an external CCTV system or camera doorbell. This policy does not apply to the use of CCTV by MDH itself which is covered in a separate policy and guidance.
- 2.2 The aims and objectives of the policy are to:
- Help create safe, secure and sustainable neighbourhoods and communities
 - Improve tenancy sustainment
 - Recognise that some tenants will feel more secure if they install external CCTV or camera doorbell
 - Recognise that some tenants may find the installation of a CCTV camera or camera doorbell to be an invasion of their privacy
 - Find a balance between the two situations above in order to allow a tenant to feel more safe and secure by installing a CCTV camera or camera doorbell or provide evidence of crime or anti-social behaviour, but also protecting the privacy of their neighbours and members of the public
 - Provide guidance to staff, members and tenants on the criteria and rules for allowing the installation of CCTV or camera doorbell by our tenants on our properties
- 2.3 MDH has a legal obligation to meet the standards set by the Regulator of Social Housing to:
- Keep neighbourhood and communal areas associated with the homes it owns safe; and
 - Prevent and tackle anti-social behaviour in the neighbourhoods where it owns homes.

3. Permission to Install CCTV or Camera Doorbells, Records and Review

- 3.1 Tenants must apply to MDH for permission, before installation of CCTV or camera doorbells. Supporting information can be provided by other agencies (e.g. Police) but it must be the tenant that makes the request (or anyone legally entitled to act on their behalf).
- 3.2 Any requests from tenants to install their own CCTV or camera doorbells will be reviewed and determined on a case by case basis.
- 3.3 MDH may ask that tenants consider other possible options such as security lighting or neighbourhood watch schemes before requesting permission to install CCTV or camera doorbells.

- 3.4 Where CCTV or a camera doorbell has been installed without permission, the tenant will be required to remove the installation. In some cases, it may be possible to apply for retrospective permission which will be considered against all aspects of this policy. This is at the discretion of MDH and all cameras must be disabled until the outcome of the request.
- 3.5 Numerous factors will be considered when CCTV or camera doorbell installation has been requested. These include but are not limited to:
- Why the CCTV or camera doorbell is needed
 - Whether any other means could be used to protect the property or occupants
 - The area covered by the CCTV or camera doorbell
 - Whether the CCTV or camera doorbell is recording sound or not
 - Whether the CCTV or camera doorbell coverage could be considered to be intrusive on neighbours' or others' privacy
 - How neighbours feel (or might feel) about the CCTV or camera doorbell being installed
 - Whether another agency has recommended the installation of CCTV or camera doorbell to the tenant
 - Any other factors that MDH deems reasonable to consider
- 3.6 The initial review will be carried out by a Neighbourhood Officer or team leader who will make a recommendation setting out the factors considered in line with this policy. The relevant Operations Manager or Corporate Manager responsible for MDH will make the final decision and provide a written rationale for the approval or rejection of the request. The review and final decision shall be held on MDH records for as long as the CCTV or camera doorbell system remains in use.
- 3.7 MDH may periodically monitor the use of tenant CCTV or camera doorbell systems to ensure compliance with this policy including any guidelines or recommendations set out. With reasonable notice, MDH may therefore require a tenant to give MDH access to the system for this purpose. We will not view general footage, or get involved in decisions about the processing of data, captured by CCTV or camera doorbell installed by a tenant. However, MDH may use two staff members (one on a phone to the other) viewing footage when the only 'data subject' in view of the camera is a MDH staff member.
- 3.8 In accordance with Section 3.7 of this policy, MDH will hold a secure record of all permissions made under this policy for the installation of a CCTV or camera doorbell system in one of its properties by a tenant.
- 3.9 The continued use of the CCTV or camera doorbell system can be reviewed by MDH at any stage and permission withdrawn for reasons set out in Section 4.2 and/or in light of any valid complaints received as set out in Section 5 of this policy or as directed by the relevant regulator (Commissioner) of such systems. Any CCTV or camera doorbells left at a property once it becomes void (end of tenancy), undergoes a mutual exchange or a transfer it will be removed before the property is allocated to a new tenant unless there are exceptional reasons to retain it, whereby a new review of the continued use of the CCTV or camera doorbell must be completed and determined as set out in Section 3.6 of this policy.

4. The Law and Tenants' Responsibilities

- 4.1 Once permission is granted tenants must:
- Comply with the law. When a tenant contacts us, MDH will direct them to information about the law that they must follow at:

<https://www.gov.uk/government/publications/domestic-cctv-using-cctv-systems-on-your-property/domestic-cctv-using-cctv-systems-on-your-property>

- Cover their property only and not the neighbour's property or any communal areas. This means that tenants may not be granted permission for the CCTV or a camera doorbell if they live in a flat with a shared entrance.
 - Have a camera doorbell which does not record or save footage if it covers a neighbour's property or any communal areas. This means if a tenant lives in a flat with a shared entrance, permission may only be given for a camera doorbell with a live video stream.
 - Make good any damage caused from the installing or removing of any CCTV or camera doorbells.
 - Not compromise electrical or fire safety (e.g., overload or damage electrical systems, damage fire doors including flat entrance doors).
- 4.2 Failure to meet these requirements may result in MDH requiring the tenant to remove the CCTV equipment or camera doorbell. If the items are not removed the Council will, after consulting legal services, remove them.
- 4.3 MDH does not regard CCTV or camera doorbell installation as an improvement and will not make payments under the compensation for improvements scheme.
- 4.4 In some instances, it may not be possible to site a CCTV or a camera doorbell without capturing images of parts of a neighbouring property or communal areas. If images are being captured outside of the boundaries of a tenant's property, it may be subject to data protection laws (i.e. the Data Protection Act 2018 and/or the UK General Data Protection Regulation and the tenant will need to comply with all requirements under this legislation.
- 4.5 In the exceptional event permission is granted for the installation of a tenant's CCTV or camera doorbell that captures images beyond their property boundary, such as:
- Other properties or gardens
 - Communal corridors or shared spaces
 - Car parks
 - Footpaths
- Then the use of the system is subject to data protection laws, as the person using the CCTV or camera doorbell is considered a data controller and/or a data processor. Data protection laws require a number of actions to be taken by such persons in relation to the installation and use of CCTV or camera doorbells.
- 4.6 For the full guidance, and more information please visit the Information Commissioner's Office (ICO) website:
- <https://ico.org.uk/your-data-matters/domestic-cctv-systems-guidance-for-people-using-cctv/>

5 If a tenant is unhappy about a neighbour's CCTV or camera doorbell

- 5.1 If another tenant or third party feels unhappy about being filmed, MDH will ask that they talk to the tenant in the first instance. They may not know that it is causing a problem and therefore they should be given the opportunity to make changes to the CCTV or camera doorbell coverage so that both parties are happy. For example, blanking out areas from being recorded.

- 5.2 If the matter is not resolved to the tenant or third party's satisfaction the dissatisfied party can make a referral to the ICO.
- <https://ico.org.uk/make-a-complaint/>
- 5.3 Any concern about the use of the CCTV or camera doorbell or the improper use of the data captured, can also be reported to the Police
- 5.4 Any unresolved dispute regarding the CCTV or camera doorbell is essentially a private and civil dispute between the parties concerned and the Council cannot take action.
- 5.5 MDH has a responsibility to investigate any complaint made against a MDH tenant whether made by another tenant or a third party.
- 5.6 If a tenant or third party submit a complaint to the Council it will be dealt with in accordance with the Council's complaints policy. More information on how to submit a complaint and the process is set out at:
- <https://www.middevon.gov.uk/your-council/customer-services/customer-feedback-and-complaints/>
- 5.7 The Council may undertake a review of the permission granted for the installation of CCTV or video doorbells as part of its complaints handling.
- 5.8 General dissatisfaction that a tenant is using CCTV or a camera doorbell is not considered a breach of the tenancy. However, the Council will investigate and take action, if necessary, any reports of nuisance, annoyance and/or harassment.
- 6 Review and Version**
- 6.1 MDH will review this policy every 5-years and as required to address legislative, regulatory, best practice or operational issues.
- 6.2 This policy was produced in 2022 and is version 1.

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HOMES POLICY DEVELOPMENT GROUP 15 NOVEMBER 2022

MID DEVON HOUSING SERVICE DELIVERY REPORT

Cabinet Member(s): Cllr Stuart Penny, Cabinet Member for Housing

Responsible Officer: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Reason for Report & Recommendation: To provide the regular, quarterly update to Members on enforcement and other activity undertaken by Mid Devon Housing.

Recommendation: That Members note the report

Financial Implications: The activity of the landlord service, known as Mid Devon Housing (MDH) is accounted for with the Housing Revenue Account (HRA). The HRA is ring fenced and subject to specific financial controls.

Budget and Policy Framework: Policies agreed by the Homes Policy Development Group govern the work of the landlord service. The HRA is funded in large part by rental income and therefore maintaining the revenue stream must be a key priority for the Housing Service. Nonetheless, this report makes no budget or policy recommendations.

Legal Implications: The Housing Act 1985 applies with regard to the management of Council housing. The relationship with tenants is set out in our Tenancy Agreement. This details the rights and responsibilities of both parties including those obligations relating to repairs. The tenancy agreement also takes account of other relevant legislation including that which amended the original Housing Act, the Localism Act 2011 and the Anti-Social Behaviour, Crime and Policing Act 2014.

Following publication of the Social Housing White Paper in late 2020, the Social Housing Regulation Bill is currently on its way through Parliament and, once implemented, this will impact the regulatory framework for social housing with the aim of giving tenants a greater say in service delivery.

Risk Assessment: The Council has approximately 3,000 homes in management which represents a huge investment. Failure to provide an effective housing management service has the potential to result in failure to meet legal and statutory obligations including those relating to health and safety issues, repairs obligations tenancy fraud, and reputational issues which could result in our tenants feeling stigmatised. Failure to collect rental income could impact the ability to fund necessary management and maintenance activities.

Equality Impact Assessment: There is a suite of housing related policies. The use of these helps to ensure that Service delivery is consistent and fair. These are subject to ongoing review with the aim of more closely aligning them with the regulatory standards as set out in the Regulatory Framework for Social Housing. There is a regulatory requirement for registered providers of social housing (RPs) to tailor their service to meet the needs of the tenants and diversity data is requested from tenants at sign up to enable compliance to be monitored

Relationship to Corporate Plan: Homes and the environment are a priority for the Council and this includes increasing the supply of affordable homes in the District and also supporting and growing active tenant engagement

Impact on Climate Change: We recognise that the provision of sustainable communities is important. As part of our commitment to meeting the provisions of the Tenant Involvement and Empowerment Standard within the Regulatory Framework, the Council offers a menu of involvement which provides opportunities for tenants to get involved in Service delivery. We will be reviewing our offer to tenants with regard to their involvement in the running of the Housing Service and as part of this we will be looking at ways to allow people to get involved online thereby reducing travelling expenses. We use social media to promote sustainability and publish information relating to a variety of topics including fuel efficiency, recycling and healthy living.

With regard to the homes in our management, our repairs and improvements strategies are informed by the need to reduce carbon emissions with a decarbonisation programme; and the need to reduce fuel poverty is also a key consideration.

1. Introduction

- 1.1 MDH has approximately 3,000 homes in its management. Responsibility for repairs and maintenance lies with the Operations Manager for Building Services. The Operations Managers for Housing Management oversee work relating to income recovery, tenant engagement, and tenancy and estate management. Since the last meeting of the Policy Development Group, the existing post-holder of the latter post has reduced their hours and is now working in a job share with another experienced Officer who has joined MDH recently.
- 1.2 Annexes 1 to 3 in this report show performance against certain indicators during Quarter 2 of 2022/23 (that is, during the three months starting on 1 July 2022). Quarter 1 performance for 2022/23 as reported previously is included for comparison.

2. Regulatory changes and impacts and focus

- 2.1 Members will be aware that following the fire at Grenfell Tower in 2017, the Government has commenced work to put tenants at the heart of the work of RPs, such as the Council. A much more proactive regulatory regime is being implemented and the Social Housing (Regulation) Bill is currently going through Parliament. The new arrangements operated by the Regulator for Social Housing (RSH) and supported by the work of the Housing Ombudsman Service, will place an even greater emphasis on engagement / transparency alongside performance and the provision of information.
- 2.2 The Government undertook a recent consultation and have now published the new Tenant Satisfaction Measures (TSMs) which will come into effect on 1 April 2023 with the need for RPs to report on these one year later (from April 2024). All RPs will be required to collect and provide the information to support effective scrutiny by tenants. The aim is to show them how their landlord is

performing with regard to the management of their homes and the neighbourhoods.

- 2.3 These TSMs will provide data about social housing landlords' performance and the quality of their services. As such, there will be national benchmarks that are intended to help tenants hold their landlord to account and help the RSH in its future proactive consumer regulation role, as part of implementing the package of changes to consumer regulation set out originally in the Social Housing White Paper, which was published in November 2020.
- 2.4 TSMs will be mandatory and apply to all social housing landlords, including local authorities, housing associations and other RPs over a certain size and will therefore apply to MDH. There are 22 measures across the five themes within the Social Housing White Paper:
- keeping properties in good repairs
 - maintaining building safety
 - effective complaints handling
 - respectful and helpful tenant engagement, and
 - responsible neighbourhood management
- 2.5 12 of the proposed TSMs focus on tenant satisfaction, engagement and equality and information will be collected using perception surveys (commissioned by landlords themselves) and other engagement work. As widely expected following the consultation issued by the Government, property safety, decent homes and stock management/sustainability, repairs performance and complaints management are covered and management information will need to be provided. This means that information relating to the more traditional measures such as void times, debt recovery, high profile projects such as new build development programmes will not carry the same level of importance as far as the RSH is concerned going forward. Landlords will be expected to move their own focus to work consistency with this.
- 2.6 The RSH will also be looking closely at how social landlords develop their staff and sector professionalism alongside how they understand their tenants as well as their stock in order to ensure the voice of the silent majority of tenants including the most vulnerable is heard.
- 2.7 The RSH have indicated that they expect RPs to develop a public facing, tenant friendly performance dashboard incorporating the TSMs as well as any other local performance metrics that will be useful for tenants to hold it to account. This dashboard will therefore need to be developed in direct consultation with our tenants as well as Members whilst taking into account the regulators formal requirements. Officers have started work on this project.
- 2.8 Given the changes being implemented by the new regulatory regime, the TSMs and wider requirements of the RSH, Officers plan to use the emerging dashboard and updated Annual Reports to bring routine performance reporting into one place under a shared platform. We can use this platform to communicate coherently and consistently to tenants, Members and the regulator how well we are performing in ways we've not done so before. As part

of this we are exploring the use of 'infographics' to present information in an accessible and user-friendly way.

- 2.9 It should also be noted that the statutory Decent Homes Standard is also currently under review and is likely to be expanded to include decarbonisation and further safety measures under the provisions of the Social Housing White Paper and subsequent legislation.
- 2.10 All of these changes set out above will combine to set out an unprecedented level of change. This change represents a fundamental rethink of what is important within social housing that both staff and Members will need to embrace in order to provide effective assurance to tenants and continue to improve service delivery.
- 2.11 In the meantime, Members are asked to note the following performance information which shows how the different teams are performing generally in relation to core areas of work that will always have a level of relevance around managing tenancies, income and keeping the homes in our management safe and well maintained.

2022/23 Q1 and Q2 to date:

- Annex 1 – Tenancy enforcement activities
- Annex 2 – Tenancy safeguarding activities
- Annex 3 – Building repairs and maintenance

3. Performance activity, priorities and challenges

3.1 Tenancy teams

- 3.1.1 The Neighbourhood team is divided in to two. Those Neighbourhood Officers working within the team responsible for tenancy and estate management are largely required to deliver performance associated with the responsibilities set out in the Neighbourhood and Community Standard.
- 3.1.2 Those employed to manage income are bound to maximise income, as much as possible. The existing Rent Standard applies to rent setting, and the work of the Neighbourhood Officers who are tasked with rent collection is governed by housing-related law and the provisions of the tenancy agreement. They report to the same Neighbourhood Team Leader as the Allocations Officers. This results in the better management of risk as the team can flag any particular issues associated with affordability which may impact new tenants.
- 3.1.3 The Allocations Officers are expected to allocate and let homes in such a way as to minimise void loss, whilst at the same time ensuring that any risks associated with new tenants are mitigated. These will include those associated providing quality accommodation that can be treated with respect through to challenging behaviour as well as issues arising from a potential inability to sustain a tenancy. In such cases, the team can identify any support needs, as required.

3.1.4 Devon Home Choice (DHC) is the system through which homes in our management are allocated and let. It provides a needs assessment framework and enables housing applicants to bid for homes suitable for their needs, and in their areas of preference. The aim of DHC is to deliver sustainable communities where people want to live. The policies contained within our Tenancy Standard Framework relate to this area of work; these include the MDH allocations policy, which must be read alongside the DHC policy, the tenancy management policy and the decant policy. It should be noted that there are provisions within the policy framework to enable Officers to effectively tackle tenancy-related fraud, which is a key requirement as stated within the RSH's Tenancy Standard.

3.1.5 During the quarter, the challenges in terms of resourcing the Neighbourhood teams continued and there was a high turnover of staff in the Estates team as well as vacancies occurring in the Income team for which the recruitment process is progressing. To a large extent these mirrored challenges being faced across the Council and the Public Sector more broadly around recruitment and retention.

3.2 Repairs and Maintenance teams

3.2.1 Within Building Services there are 4 distinct teams, each with a responsibility for separate areas of work they all work closely together to create a combined approach to Repairs and Maintenance. It is helpful to summarise how these areas work are set out.

3.2.2 Planned Maintenance. This team are responsible for and manage a number of key performance objectives such as;

- Decent Homes Standard
- Gas Safety
- Fire Risk Assessments
- Asbestos Management and Removal
- Water Safety (Legionella)

3.2.3 Responsive Repairs. This team are responsible for all day to day repairs including;

- Emergency Repairs
- Urgent Repairs
- Routine Repairs
- Cyclical maintenance (Electrical and Solid Fuel)
- Sanctuary works
- Any other planned repairs that do not fit within other teams remits.

3.2.4 Voids Team. This are responsible for all aspects of the void process that sits with Building Services. This is where a tenancy has ended and a property is available for re-let but unavailable due to required works or for other reasons.

- Inspection of void properties
- Programming of works
- Building works identified

3.2.5 Commercial Services. The commercial services team are responsible for any works that are categorised as income for the HRA, these include but are not limited too;

- Garage Modernisation
- Heating replacements/Upgrades
- Gas Boiler replacement programme
- Renewable energy works
- HRA Adaptations
- Rechargeable works for other departments within the Council
- Handyperson Scheme
- External Income works (for private homeowners)
- Private Sector Adaptations and Healthy Homes Grant works
- Also during the Q2 this year they have started work on the two new build properties at Siddalls Gardens, Tiverton

3.2.6 As experienced by the Tenancy Teams, the challenges in terms of resourcing for both Operatives and Office staff has continued, and we are still carrying a number of vacancies carried into this financial year, but are working hard to address this.

4. Recommendation

4.1 Members are recommended to note the report.

Contact for more Information: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing snewcombe@middevon.gov.uk

Circulation of the Report:

Members of the Housing PDG
Cllr Stuart Penny, Cabinet Member for Housing
All Leadership Team
All Corporate Management Team
Group/Operations Managers
Legal Services

Further information:

Mid Devon Housing Strategies and Policies:

<https://www.middevon.gov.uk/residents/mid-devon-housing/help-and-support/strategies-and-policies/>

National Regulatory Framework for Social Housing:

<https://www.gov.uk/government/collections/regulatory-framework-requirements#regulatory-standards>

Annex 1 2022/23 – Mid Devon Housing Performance

Tenancy Enforcement Activities

Home Standard – Housing Revenue Account – Estates Team						
	Q1	Q2	Q3	Q4	YTD	Comments
Fraud cases opened	4	0				These figures demonstrate that the teams are alert to the need to investigate fraud and to escalate as appropriate. Tenancy fraud deprives vulnerable people of affordable homes which is why all staff are given training on this.
Fraud cases referred to an external investigator	4	0				
Acceptable Behaviour Contract (ABC) letter signed	0	0				<p>Quarter 2 saw a lot of change in the Estates team with high staff turnover. There were 4 Officers who joined and they have now finished their induction.</p> <p>The team dealt with some very detailed and complex casework and it should be noted that a lot of this has been undertaken in partnership with other agencies.</p> <p>Towards the end of Q2 one ABC letter was prepared in respect of a tenant who refused to sign the contract. Consequently, the matter has been escalated and a CPN prepared – this will appear in Q3 figures. Overall, this relates a complex case where there has been a formal, multi-agency review under the Community Trigger process resulting in 14 specific actions across Police and MDH being identified and carried out during Q2 and into Q3.</p>
Good Neighbourhood Agreements signed	0	0				
Community Protection Notice warnings issued	0	0				
Community Protection Notices issued	0	0				
Possession Actions commenced on grounds of ASB	0	1				
Closure Orders – obtained	0	0				
Injunctions sought	0	3				
Evictions on grounds of anti-social behaviour/ other tenancy breach	0	0				

Income Recovery – Housing Revenue Account – Income Team						
	Q1	Q2	Q3	Q4	YTD	Comments
Current dwelling rent arrears at Q end %	2.42	2.56				Target is <5%. Rent arrears continue to rise but over the quarter the number of current tenants claiming Universal Credit also continued to rise. The migration of tenants onto Universal Credit will mean that more are now paying in arrears as they receive their payments on a four weekly basis directly, rather than a rebate made onto their rent account as was the case with Housing Benefit. Ongoing issues associated with the cost of living are likely to result in some tenants experiencing financial distress.
Notice of Seeking possession served	50	76				These have been served to demonstrate to the tenant involved the seriousness of the situation and to encourage contact; in addition, it is important that Officers protect the interests of the Council. It also enables the Council to engage with the tenant(s) through a Court process where the tenant has previously avoided all contact.
Judgement obtained	1	2				This means that a Possession Order has been obtained due to the seriousness of the situation and size of the debt.
Warrants issued	0	3				Our Officers obtain Warrants in cases where it is felt that they have no option but to evict the tenant due to the size of the debt and a failure on behalf of the tenant to engage.
Evictions on grounds of rent arrears	1	0				Every eviction is a concern due to the social and financial cost to the tenant involved and also in terms of MDHs own resourcing. It is therefore good that none were actioned during the quarter.

Annex 2 2022/23 - Mid Devon Housing Performance

Tenancy Safeguarding Activities

Neighbourhood & Community Standard – Housing Revenue Account						
	Q1	Q2	Q3	Q4	YTD	Comments
Domestic abuse cases opened	0	0				Officers receive training and are able to identify any issues although none were reported during this quarter.
Domestic abuse cases referred to Multi-agency Risk Assessment Conference (MARAC)	0	0				Officers attend the MARAC to offer support and advice as necessary.
Safeguarding referrals made (to all agencies)	0	3				Individual team members have had the necessary training to enable them to identify safeguarding issues and to escalate as appropriate.

Annex 3 2022/23 - Mid Devon Housing Performance

Service Delivery - Building Repairs and Maintenance

Neighbourhood & Community Standard – Housing Revenue Account						
	Q1	Q2	Q3	Q4	YTD	Comments
Decent Homes Standard %	99.8	99.6				Target 100% - The percentage of decent homes is often lower during the middle of the year as annual modernisation contracts take place. We aim to reach 100% by the end of the financial year.
Emergency repairs completed on time %	100.0	100.0				Target 100% - 424/424 repairs.
Urgent repairs completed on time %	99.5	99.1				Target 95% - 447/443 repairs
Routine repairs completed on time %	99.1	97.6				Target 95% - 2189/2137 repairs
Repairs completed first visit %	99.4	99.3				Target 95% - 2905/2886 repairs
Gas safety checks %	99.5	98.7				Target 100% - The majority of properties without a valid gas safety certificate presently are related to access issues and the appropriate enforcement action is taking place. We are also working hard to address some performance issues that we are experiencing with the new contractor. The contract issues are being addressed via a contract management meetings with the contractors.
Fire risk assessments %	100.0	100.0				Target 100%
Water safety checks (Legionella) %	99.9	99.9				Target 100% - Access issues have been the only reason we haven't been able to reach the 100% target.
Number of void properties at Quarter end	59	55				75 in total less 9 held for development and unavailable for re-let and 11 ready being re-let = 55