

Public Document Pack

Mid Devon District Council

Homes Policy Development Group

**Tuesday, 21 March 2023 at 2.15 pm
Phoenix Chambers, Phoenix House, Tiverton**

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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Meeting ID: 842 9704 4535
Passcode: 712792

Membership

Cllr G Barnell

Cllr J Bartlett

Cllr J Cairney

Cllr S J Clist

Cllr D R Coren

Cllr R J Dolley

Cllr R 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 - 10*)
To consider whether to approve the minutes as a correct record of the meeting held on 17 January 2023.
- 5 **Chairman's Announcements**
To receive any announcements that the Chairman may wish to make.
- 6 **The use of Flexible Tenancies** (*Pages 11 - 18*)
To receive a report from the Corporate Manager for Public Health, Regulation and Housing. The use of flexible tenancies can be challenging and this report sets out some of the issues impacting their use. Members are asked to give consideration as to whether or not they would like Mid Devon Housing (MDH) to undertake further research and to work up a project plan setting out a proposal to consult tenants and other stakeholders on the continued use of these tenancies.
- 7 **Mid Devon Housing Service Delivery Report** (*Pages 19 - 30*)
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. The report further presents how the pending changes to the Regulatory Framework for Housing and consumer-led regulation regime impact on service delivery reporting and performance information provided to members and tenants from 2023/24.
- 8 **Chairman's Annual Report for 2022 - 2023** (*Pages 31 - 32*)
To receive the Chairman's Annual Report for 2022-2023.

9 **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:

- Election of Chairman
- Election of Vice Chairman
- Start time of meetings
- Asbestos Management Plan

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

Stephen Walford
Chief Executive
Monday, 13 March 2023

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.

Please note that a reasonable amount of hardcopies at the meeting will be available, however this is a limited number. If you are attending the meeting and would like a hardcopy of the agenda we encourage that you notify Member Services in advance of the meeting to ensure that a hardcopy is available. Otherwise, copies of the agenda can be found on our website.

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

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **HOMES POLICY DEVELOPMENT GROUP** held on 17 January 2023 at 2.15 pm

Present

Councillors

R J Dolley (Chairman), G Barnell (attended via Zoom)
J Bartlett, J Cairney, D R Coren, R Evans, P J Heal and
L J Cruwys

Apology

Councillor

S J Clist

Present

Officers

Jill May (Director of Business Improvement and Operations), Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing), Paul Deal (Corporate Manager for Finance), Sue Hanwell (Operations Manager for Housing), Mike Lowman (Building Services Operations Manager), Lisa Lewis (Corporate Manager for Business Transformation and Customer Engagement), Tanya Wenham (Operations Manager for Public Health and Housing Options), Sam Barnett (Housing Initiatives Officer), Andrew Seaman (Member Services Manager) and Sarah Lees (Member Services Officer)

47 Apologies and Substitute Members

Apologies were received from Cllr S Clist who was substituted by Cllr L Cruwys.

Cllr G Barnell attended the meeting via Zoom.

48 Public Question Time

There were no members of the public present and none had registered to ask a question in advance.

49 Declaration of Interests under the Code of Conduct

No interests were declared under this item.

50 Minutes

The minutes of the meeting held on 15th November 2022 were agreed as a true and accurate record and signed by the Chairman.

51 Chairman's Announcements

The Chairman had no announcements to make.

52 **2023/24 Budget Update (00:06:00)**

The Group had before it, and **NOTED**, a report * from the Deputy Chief Executive (S151). This report updates the General Fund deficit to the current position of £905k and proposes options to consider to achieve the statutorily required neutrality. The HRA Budget position shows a balanced position for 2023/24 and a reduced shortfall across the remainder of the MTFP.

Key highlights within the report were as follows:

- The services reporting to this committee have small budgets that are largely funding through external funding, thereby making the identification of savings difficult.
- The draft budget still had a residual gap with inflation, not grant cuts, being the chief cause.
- Other influencing factors included the rise in energy costs, a rise in pay and pension contributions and slightly lower Council Tax income due to the loss of any surpluses.
- Towns and Parish Council's had been approached to discuss options for financial support towards service provision, however, there had not been a great deal of response so far.
- Pay assumptions had been reviewed as had Business Rate income and the Asset Management Programme.
- The turnover of staff and vacancy assessment. A robust process was in place to assess each vacant post in terms of income generating opportunities and health and safety risks.
- Some areas of the Council's activity needed to be topped up going forwards such as providing sufficient budget for Planning Appeals.
- The outcome of 3 Rivers Ltd was not yet known.
- The Housing Revenue Account (HRA) was currently showing a balanced position, with below inflation assumptions for Rental Income and a significant plan for housing development.

Discussion took place with regard to:

- More detail was requested regarding the housing development programme. It was confirmed that this would be included within a Housing Strategy update report to be presented to the next meeting but a firmer idea of the HRA budget for next year was needed first.
- Opportunities for income generation existed within the HRA, particularly within the Repairs and Maintenance area.
- Opportunities to develop old garages into housing units.

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

53 **Tenant Involvement and Empowerment update (00:40:00)**

The Group had before it, and **NOTED**, a report * from the Corporate Manager for Public Health, Regulation and Housing providing an update to Members on the work relating to tenant involvement and empowerment and how this supports statutory and regulatory obligations including important changes to the social housing regulatory regime.

Key highlights within the report were identified as follows and discussion took place regarding:

- The new Regulations required the Council to report on a number of factors with the vast majority relating to Tenant Satisfaction therefore work around this was very important.
- New Tenant Champion roles were being advertised.
- Very good lines of communication between Tenants and the Council were already in operation.
- Small wins made a big difference to Tenants.
- A 'Winter Warm Club' continued to run and provided a good opportunity for the Neighbourhood Teams to have face to face contact with Tenants.

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

54 **Damp & Mould Review (00:55:00)**

The Group received a presentation from the Corporate Manager for Public Health, Regulation and Housing regarding damp and mould in Housing.

Key elements within the presentation were as follows:

- Reference was made to a tragic case recently in the media and the conclusions of the Coroner.
- As a result a detailed, timely and combined response had been provided by Mid Devon Housing and Public Health Services to Government.
- A recently completed in-depth review of the situation within the Mid Devon Housing stock had already been undertaken and the results of this were available on the website.
- Every report of damp and mould was investigated (both private sector housing standards and as a landlord). A large number of factors could be responsible for damp and mould, including the age of a property and how much ventilation there was.
- A dedicated Mid Devon Housing Damp and Mould policy would be drawn up later in the year following updated guidance from the Government.
- Damp and Mould would always occur especially in a country with high seasonal temperature variations and varied housing stock.
- The importance of managing complaints to ensure there is no long-term exposure to persistent damp and mould.

Consideration was given to:

- Damp and mould having long term health implications.
- More private homes did not meet the Decent Homes Standard compared to the Council's Housing stock. Private Sector landlords faced a number of challenges with this.
- Damp and mould occurred in properties both in the rural and the urban environments.

55 **Private Sector Housing Assistance Policy (01:22:00)**

The Group had before it a report from the Corporate Manager for Public Health, Regulation and Housing present a revised Housing Assistance Policy under Article 4 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002, following a review of the current Housing Assistance Policy 2019-22.

The contents of the report were outlined and particular reference made to the following:

- It was confirmed that the Private Sector Housing team looked after this area of work and that there was a real focus on trying to keep people safe in their homes and offering advice and support with grants and adaptations.
- Staff involved in the delivery of this were funded by the Better Care Fund which was a pot of money available to local authorities to support tenants in the Private Sector.

Discussion took place with regard to:

- The range of comprehensive help that was available to support Tenants.
- Disabled Facility Grants being used to make adaptations within homes needing them.
- There would always be properties that were impossible to adapt but the funding and support available often helped to unlock some of these barriers.

RECOMMENDED to the Cabinet that:

1. It approves the revised Housing Assistance Policy 2022-2025 attached in Annex A.
2. That delegated authority is given to the Corporate Manager for Public Health, Regulation and Housing, in consultation with the Cabinet Member for Housing, to make minor adjustments to the policy based on demand and local priorities.
3. That delegated authority is given to the Corporate Manager for Public Health, Regulation and Housing, in consultation with the Cabinet Member for Housing, to suspend some or all non-mandatory parts of the revised Housing Assistance Policy attached in Annex A (all elements of the Policy other than Section 4 Mandatory Disabled Facilities Grants) if adequate funding is not available.

(Proposed by Cllr P Heal and seconded by Cllr B Evans)

Reason for decision

As set out in the report.

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

56 **Void Management Policy (01:42:00)**

The Group had before it a report * from the Corporate Manager for Public Health, Regulation and Housing. An updated, draft policy on the management of void properties within the Council's housing stock is presented to Members. This has

been developed following an in-depth review of voids management and with an aim to ensure that properties which become void continue to be re-let as quickly and efficiently as possible. The policy also seeks to balance this approach with the needs of tenants and the requirement to maintain our properties to an appropriate, safe lettings standard whilst retaining a sustainable stock and Housing Revenue Account.

The contents of the report were outlined with the following being highlighted:

- The management of void was undertaken as quickly and as efficiently as possible, carefully balanced with the requirement for effective stock management in order to provide a decent, sustainable estate for the future
- Housing stock had to be 'fit for purpose' when re-let and going forwards.
- The Cabinet Member for Housing and officers had overseen a thorough review of this area, listening to views of all members and taking into account the findings of Devon Audit Partnership audit commissioned by the Mid Devon Housing.
- The updated policy sought to provide clarity on all aspects of voids management
- Previous re-letting targets had been unrealistic and unachievable.
- Recent constraints had included the ability to get materials quickly as well as regulatory pressures alongside new pressures from increasing levels of tenant damage, decarbonisation of our properties and meeting Decent Homes Standards.
- New targets were more measurable and achievable and there were 4 new categories of Voids.
- The proposed overarching occupancy rate target of 97%.
- The views of tenants had been listened to.
- There would be more financial monitoring going forwards.
- It was proposed that the revised policy be reviewed in 12 months time allowing for additional engagement with tenants who had experienced the updated voids approach.

RECOMMENDED to the Cabinet that it approves the updated Voids Management Policy contained in Annex B.

(Proposed by Cllr P Heal and seconded by Cllr L Cruwys)

Reason for decision

As set out in the report.

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

57 Identification of items for the next meeting (01:55:00)

Members **NOTED** the items listed in the work programme for the next meeting.

(The meeting ended at 4.14 pm)

CHAIRMAN

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HOMES POLICY DEVELOPMENT GROUP

21 MARCH 2023

THE USE OF FLEXIBLE TENANCIES

Cabinet Member(s): Councillor Ashley Wilce, Cabinet Member for Housing
Responsible Officer: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

Reason for Report & Recommendation: The use of flexible tenancies can be challenging and this report sets out some of the issues impacting their use. Members are asked to give consideration as to whether or not they would like Mid Devon Housing (MDH) to undertake further research and to work up a project plan setting out a proposal to consult tenants and other stakeholders on the continued use of these tenancies.

Recommendation: That Members agree the development of a project plan setting out proposals to consult tenants and other stakeholders on the continued use of flexible tenancies by Mid Devon Housing for discussion and agreement at a future meeting of the Homes Policy Development Group

Financial Implications: The activity of the landlord service, known 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: The HRA is funded in large part by rental income. Any consultation relating to the continued use of flexible tenancies has to be funded using budgets with the HRA. However, there are monies set aside for tenant engagement which could be used.

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. There is a legal obligation to consult tenants with regard to any changes which MDH wishes to make to the Tenancy Agreement.

The Tenant Involvement and Empowerment Standard within the Regulatory Framework for Social Housing, as operated by the Regulator for Social Housing (RSH), requires registered providers of social housing (RPs) such as MDH, to ensure that tenants are given a wide range of opportunities to influence and be involved in the formulation of their landlord's housing-related policies and strategic priorities; agreeing local offers for service delivery.

Risk Assessment: The use of flexible tenancies requires review but any proposals to change the available forms of tenure that can apply to tenants of MDH must involve consultation with tenants to ensure statutory and regulatory compliance. Failure to do so could result in complaints, negative regulatory judgement, judicial review and reputational risk.

Equality Impact Assessment: MDH is currently reviewing our approach to the collection of data relating to the needs of tenants to support compliance with the regulatory requirement that we should understand these and tailor services accordingly. A project is currently being discussed to ensure that we maximise the data available relating to diversity of our tenants.

Relationship to Corporate Plan: Supporting and growing active tenant engagement is a priority for the Council.

Impact on Climate Change: If the proposal is agreed, Officers will ensure that any project plan prioritises the use of electronic means of engagement with tenants and other stakeholders in order to minimise the use of paper and printing involved in such a consultation.

1.0 Background

- 1.1 Council tenants became secure tenants following the 1980 Housing Act. After the 1996 Housing Act, introductory tenancies came into being. The Introductory Tenancy Scheme was introduced in Mid Devon from 4 April 2004 as a means of combatting anti-social behaviour and other serious breaches of tenancy by new Council tenants.
- 1.2 From 2003, landlords could demote tenancies in response to issues arising from a failure to adhere to conditions of tenancy and the Council did, on occasions, use this as a means to manage tenancy issues. Then, the Localism Act 2011 introduced flexible tenancies of up to 5-years with an introductory tenancy form for new Council tenants. These are otherwise known as fixed term tenancies.
- 1.3 All tenancy agreements contain rights and responsibilities for both parties and the relationship between landlord and tenant is based on the particular agreement used at the letting. The grounds for possession relating to secure tenants are set out in Schedule 2 of the Housing Act 1985.
- 1.4 Secure tenants have security of tenure because once they have this type of tenancy, they can remain in the property until they pass away, subject to meeting the requirements of the tenancy agreement. At the time, the press described these tenancies as “lifetime tenancies”.
- 1.5 Flexible tenancies were introduced to enable social landlords to offer fixed term tenancies to new social tenants. A decision to renew them at the end of the term can be made following a detailed review of factors including income, employment status, under-occupancy and behaviour.
- 1.6 The 2016 Housing and Planning Act set out proposals to ensure that all new lettings offered by Councils in relation to general needs housing were made using flexible tenancies. However, the plans were abandoned in August 2018 with the launch of the Social Housing Green Paper following the disaster at Grenfell Tower.
- 1.7 Research undertaken by Watts and Fitzpatrick (2018) to look into the effectiveness of fixed term tenancies identified some tension between two “competing visions” of social housing: one focused on meeting the acute housing

needs of high numbers of households by increasing what may be termed as “tenancy churn” or the “flow” of tenants through social housing; and the other focussed on meeting the longer-term and wider needs of households for stability, belonging and connectedness to their homes and communities. The research involved housing associations, and Councils such as Mid Devon District Council with retained housing stock.

- 1.8 The research also found that the practical consequences of using fixed term tenancies had yet to be fully understood given that the use of these tenancies was relatively new and experience of tenancy renewals was limited. The impact of these tenancies in terms of the resourcing required to manage them, their effect on both tenants and the areas where they reside, and their capacity to deliver more empty homes for those in need needed to be considered as more tenancies ended and what happened in terms of renewing them.

2.0 The Existing Tenancy Strategy

- 2.1 A registered provider of social housing (RP) such as Mid Devon Housing (MDH) can only use flexible tenancies if the strategic housing authority, the Council in this case, specifies that they can be used within the tenancy strategy.
- 2.2 The existing tenancy strategy was adopted in 2012 and is due for review. RPs which work in the District are required to have regard to this and it should set out a description of the high level objectives that RPs should include in their policies. In particular, these policies must relate to:
 - The kind of tenancies they grant
 - The circumstances in which they will grant a tenancy of a particular kind
 - Where they grant tenancies for a fixed term, the length of the terms
 - The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.
- 2.3 The existing tenancy strategy states that the Council is committed to the use of fixed term or flexible tenancies as it considers that this would enable the best use of the social housing stock in the District.
- 2.4 The proposed review of the tenancy strategy, a document which relates to the Council’s strategic housing function, is likely to propose a softening of this requirement to enable RPs working in the District, including MDH which manages the retained housing stock, to move away from the use of fixed term tenancies if they feel that it is appropriate to do so. Recommendations will be made to Members at the time as this policy is considered by the Homes Policy Development Group (PDG).

3.0 The Use of Flexible Tenancies

- 3.1 The Council has been using flexible tenancies since 8 April 2013. The need to “make best use of the housing stock” influenced the decision to introduce this form of tenure. However, there was also support for the view that social housing should be available to those who need it the most at the time when they need it the most; meaning that it is there as a safety net for those in housing need,

offering a “helping hand” to enable them to get into a position whereby they can resolve their housing needs in a different way at the end of the fixed term.

- 3.2 Currently, the majority of those tenants who have never previously held a social housing tenancy are issued with introductory tenancies lasting a year which can be extended in certain circumstances as set out in our introductory tenancy policy. They are then usually issued with a flexible tenancy lasting 5 years so in effect will have a right to reside in their new home for a period of 6 years after first moving in.
- 3.3 However, in some circumstances, tenants will be issued with a tenancy for a shorter fixed term of 2 years.
- 3.4 The regulatory framework for social housing contains a requirement set out in the Tenancy Standard which compels social landlords using flexible tenancies to have an agreed tenancy policy. This requirement arises due to the need to demonstrate that they have complied with the policy when seeking to end a flexible tenancy. The ending of the tenancy can also trigger a complaint and landlords need to be able to demonstrate that any action taken was in line with policy previously agreed (in order to deliver openness and transparency).
- 3.5 The tenancy standard also requires social landlords to: “develop and deliver services to address under-occupation and overcrowding”. Landlords are expected to make the best use of the housing stock available.
- 3.6 As stated, there is a relationship between social landlords and strategic housing authorities. As a Council with retained stock, MDCC needs to ensure that the tenancy policy developed by the Council in the landlord role corresponds with the tenancy strategy agreed as a policy of the housing authority. The tenancy strategy is likely to be reviewed during 2023 so a review of flexible tenancies would be timely.

4.0 Arguments for and against the Use of Flexible Tenancies

- 4.1 As stated, the rationale used in Mid Devon in support of the use of flexible tenancies was related to a desire to make best use of the housing stock. In our District, there is an aging population and this was reflected in the diversity of the tenants in our homes. There were levels of under-occupation and the aim of the new strategy was to increase turnover in order to ensure that the supply of homes was increased. Later on, welfare reform became a significant driver in relation to this aim and the Devon Home Choice policy now gives priority to those wishing to downsize, thereby supporting the aim of making best use of the housing stock.
- 4.2 In addition, the desire to give those in need a “helping hand” for a short time whilst they really needed was a key influence on the decision to adopt this form of tenure in Mid Devon. The ability to end a tenancy on the grounds of anti-social behaviour was given less priority although when the tenancy strategy and the tenancy policy were adopted, they both contained clauses which stated that this could be grounds for non-renewal of the tenancy at the end of the term.
- 4.3 At the start, there was some concern about the risks associated with the use of flexible tenancies. For example, it was felt that the use of flexible tenancies

could impact tenants individually and collectively. This risk was identified on the basis that people may not feel settled or emotionally connected to their new home due to the fact that they may not be there for a long period. This, in turn, could then impact community cohesion due to the fact that some people did not feel that they would be living in their neighbourhood for a long period.

4.4 Other considerations to inform the discussion relating to the use of flexible tenancies include:

- Secure tenancies are more attractive to tenants
- Different types of tenure complicate the lettings process with the resulting administrative burden
- Secure tenancies support the development of sustainable communities
- People may be reluctant to decorate or to fully furnish their home if they have a flexible tenancy leading to increased void costs
- People with flexible tenancies may find it difficult to find a mutual exchange because secure tenants may not wish to lose their security of tenure
- Families who have flexible tenancies may undergo the stress of a review of their household circumstances only to find that their tenancy is renewed
- The administrative costs associated with the review of a flexible tenancy
- Any decisions relating to the review of a flexible tenancy must account for the long term health needs and disabilities found in each household
- Flexible tenants have the Right to Buy and if there is a concern that the tenancy will not be renewed, they may exercise this right in order to remain in their home. This may not have been something that they considered previously but the thought of losing their property may focus their attention on the options available to enable them to stay put.

5.0 The Management of Flexible Tenancies

5.1 There is an administrative burden associated with the use of flexible tenancies.

5.2 These tenancies need to be monitored carefully at the beginning and then they need to be reviewed in line with the provisions of the legislation before a decision can be made not to renew one.

5.3 A court can only refuse possession if the correct procedure has not been followed by the landlord or if the court is satisfied that the decision not to grant another tenancy was otherwise “wrong in law”.

5.4 There are three conditions which must be met before a case can be referred to Court for a possession order:

- The fixed term has ended
- The tenant has been given no less than 6 months’ notice in writing
 - Stating that the landlord does not propose to grant another tenancy on the expiry of the fixed term
 - Giving the reasons why
 - Informing the tenant of their right to request a review and the timescale for this

- The tenant has been given no less than two months' notice in writing stating that the landlord requires possession of the property
- 5.5 If the tenant refused to vacate the property, the landlord must commence possession proceedings. Therefore, the review procedure must be lawful and Officers need to ensure that they do everything in the timescales expected and in line with published policy.
- 5.6 Tenants have a right to a review of the decision to end the flexible tenancy.
- 5.7 Our tenancy management policy 2022, incorporated in the tenancy standard policy 2022, which was recently adopted by the Council, states that the following will be taken into account in relation to any decision not to renew a flexible tenancy, although this list is not exhaustive:
- Household profile, including under-occupation
 - Income and savings
 - Tenancy conduct
 - Whether the property was adapted for someone no longer resident there
- 5.8 The review of flexible tenancies is resource intensive. During the pandemic, Officers needed to make adjustments to deliver Covid-secure practices. Previously, Officers had visited individual households and sought to examine any supporting evidence in person. Officers are now endeavouring to visit tenants, in line with good practice, in order to discuss matters more fully with tenants but this creates a burden due to the impact on the time of the Officers.

6.0 Unintended Consequences Arising from the Use of Flexible Tenancies

- 6.1 Several issues have emerged over time and are widely recognised as being problematic with regard to the management of flexible tenancies. These issues can be summarised as follows:
- **Inflexibility around joint tenants** - if one joint tenant has left the home, the landlord cannot simply renew the tenancy at the end of the fixed term in the sole name of the remaining joint tenant. This scenario is covered by the Housing Act 1985. Due to legal considerations, Council landlords have to serve the relevant 6-month and 2-month notices prior to not renewing the tenancy at the end of the fixed term. Possession proceedings must be started and possession obtained prior to creating a new sole tenancy. This then raises the question of whether or not it would be reasonable to recharge the remaining tenant under the circumstances.
 - **Enforcement and court outcomes** - if a social landlord seeks to enforce the relevant terms of a flexible tenancy in relation to rent arrears, and the Court does not grant outright possession, instead making an Order for suspended possession, this results in the flexible tenancy becoming a secure tenancy.
 - **Forfeiture and Council liability** - tenancy agreements must include a clause which allows landlords to forfeit (the MDH flexible tenancy agreement includes this). If the landlord serves a Notice of Seeking Termination on a flexible tenant on grounds other than rent arrears, due to

legal issues, the landlord is required to serve the same Notice as the rent arrears but outlining the grounds. A Section 146 Notice must also be served and once this has been done, the landlord has to waive the right to collect rent.

- Once a landlord has elected to forfeit, any action incompatible with the decision to forfeit can (and often does) amount to the landlord having waived the breach. The most common example of waiver would be a demand for, or acceptance of rent after service of a Section 146 notice. So, if there is a demand for, or acceptance of rent by the landlord, in the period between electing to forfeit (service of Notice of Seeking Termination and/ or a Section 146 notice) and the issuing of proceedings, it can be argued that the landlord has waived the right to forfeit.
- **Evidencing significant change in circumstances/right to social housing** - very few flexible tenancies are not renewed on the basis that frequently it is difficult to prove that the circumstances of the tenants have changed to such an extent that they should not remain in social housing. Experience has shown that any decision not to renew tends to result in requests for appeals and challenges, usually relating to the impact that any decision to end the tenancy would have on individual members of the household.
- Given the current issues associated with the cost of living, many people would now find it difficult to find alternative accommodation in the private sector or to secure a mortgage offer which would allow them to purchase a home, even if they did have a high level of income.

7.0 Consulting Tenants and Other Stakeholders

7.1 There are statutory and regulatory obligations relating to the need to involve tenants in any decisions around the type of tenancy agreements in use. If Members agree that Officers can work up a project plan relating to a consultation on the continued use of flexible tenancies, this will include options for consideration.

7.2 Potentially, these could include:

- Halting the use of flexible tenancies
- Maintaining the status quo – but with increasing stock numbers this has implications in terms of the resource needed to manage flexible tenancies going forward
- Adopting a blended approach – based on people and/ or property type. For example, retain the use of flexible tenancies for larger homes including three bedroom and larger units. Another option would be to use tenancies of differing lengths or retaining the use of 2 year flexible tenancies for cases where there are exceptional circumstances.

7.3 Other registered providers have made changes to their tenancy policies. Curo, a housing association based in Bath, is converting fixed term tenancies to assured tenancies when the current term ends on each contract. Other major registered providers including Sanctuary, Peabody and London & Quadrant are

also phasing out fixed term tenancies. More locally, LiveWest are using a blended approach and have reduced use of flexible tenancies.

- 7.4 Dacorum Council ceased the use of 5-year flexible tenancies with effect from 1 April 2020. They issue new Council tenants with a new secure tenancy. Waverley Council consulted tenants and all new ones are now issued with a secure tenancy with effect from 5 July 2022. They will be converting current flexible tenancies in phases. MDH have identified that many other stock holding Local Authorities have reviewed these tenancies and are reducing or ending use.

8.0 Recommendation

- 8.1 That Members agree the development of a project plan setting out proposals to consult tenants and other stakeholders on the continued use of flexible tenancies by Mid Devon Housing for discussion and agreement at a future meeting of the Homes Policy Development Group

Contact for more Information: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing, snewcombe@middevon.gov.uk or 01884 255255.

Circulation of the Report:

Members of the Housing PDG
Cllr Ashley Wilce, Cabinet Member for Housing and Property Services
Leadership Team
Corporate Management Team
Legal Services

Further Information:

The tenancy agreement currently in use by Mid Devon Housing:

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

The Housing Strategy & other policies currently in use by the Council as a landlord:

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

Research:

Watts, B., & Fitzpatrick, S. (2018). *Fixed Term Tenancies: Revealing Divergent Views on the Purpose of Social Housing*. Heriot-Watt University. Available at <https://researchportal.hw.ac.uk/en/publications/fixed-term-tenancies-revealing-divergent-views-on-the-purpose-of->

HOMES POLICY DEVELOPMENT GROUP 21 MARCH 2023

MID DEVON HOUSING SERVICE DELIVERY REPORT

Cabinet Member(s): Cllr Ashley Wilce, 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. The report further presents how the pending changes to the Regulatory Framework for Housing and consumer-led regulation regime impact on service delivery reporting and performance information provided to members and tenants from 2023/24

Recommendation: Members to note the report

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: 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 MDH. 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.

The new legislation arising from the Social Housing (Regulation) Bill which is due to be implemented later this year, will introduce changes to regulatory framework for social housing. Registered providers of social housing (RPs) such as MDH will be required to offer tenants increased opportunities to influence their work. Furthermore, the regulator for social housing (RSH) has already issued a statement setting out how they will implement a new system of performance monitoring which will commence in April 2023. This will require MDH to publish information against a set of performance indicators with effect from April 2024.

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 which are set out in the regulatory framework for social housing. There is a regulatory requirement for 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: 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 management located across the District.

1.2 Annexes 1 to 3 in this report show performance against specific indicators during Quarter 3 of 2022/23 which ended on 31 December 2022.

2 The Regulatory Framework for Social Housing and changes

2.1 As Members are aware, following the fire at Grenfell Tower in 2017, the Government is working to implement new legislation, as set out in the Social Housing (Regulation) Bill to ensure that the voices of tenants are heard by registered providers of social housing (RPs) such as the Council. Work has begun to reform the way in which the Regulator for Social Housing (RSH) and the Housing Ombudsman work to ensure that the views of tenants are heard.

2.2 As part of this transformation strategy, the RSH has published how they will implement a new system for assessing the work of RPs with regard to the provision of good quality homes and services.

2.3 The consumer standards within the regulatory framework will be revised, increasing the number of these from four to six. The following themes will be covered by the new standards. The stated aim of the RSH is that these themes should set out the right outcomes expected of landlords to deliver for tenants.

- Safety
- Quality
- Neighbourhood
- Transparency
- Engagement and accountability
- Tenancy

2.4 The new standard designed to deliver transparency has been announced. This set out how landlords are required to make information accessible to tenants. It will be known as the Tenant Satisfaction Measures (TSMs) standard and will require landlords to collect and to publish information on tenant satisfaction measures.

- 2.5 RPs will be required to undertake surveys of satisfaction and to publish this and other performance management information as a matter of routine, in line with the new standard. There is a requirement to collect this data with effect from April 2023 and to publish the results with effect from April 2024.
- 2.6 There will be 22 TSMs, covering five themes. Ten of these will be measured by RPs carrying out tenant perception surveys and the remainder will be based on performance data. The themes covered by the tenant satisfaction measures are as follows:
- Keeping properties in good repair
 - Maintaining building safety
 - Respectful and helpful engagement
 - Effective handling of complaints
 - Responsible neighbourhood management
- 2.7 As been provided previously to the PDG, a summary of these new TSMs is attached for information in Annex D.
- 2.8 MDH recently engaged a contractor to undertake a tenant perception survey and is now using the data gained to inform service improvements. A new contractor has been engaged for 2023/24 in partnership with two other Councils locally with retained stock (East Devon and Exeter) and will be collecting the data annually as required by the RSH in accordance with the prescribed methodology.
- 2.9 Work has begun on the creation of a new performance hub for MDH where performance information and perception survey data can be held and used to inform a dashboard which will be available to tenants to view. The aim of this will be to increase understanding of performance and to help with reporting and benchmarking.
- 2.10 The RSH also requires landlords to provide effective assurance to members with regard to performance relating to service delivery. The MDH approach to this will be reviewed as part of the ongoing work to deliver a performance hub, however, with regard to core assurance more information on proposed changes to our regular service delivery reporting is provided below. In the meantime, this report shows how different teams are performing generally in relation to key 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.
- 2.11 As a result of these regulatory changes and in particular the new TSMs, at the next PDG we will be coming forward with a new format of service delivery report to encompass these mandated performance metrics and seek to retain other information already provided for core areas not covered by a TSM but where tenants and/or member feel this performance information is helpful. This will form the basis for reporting on 23/24 performance onwards. The suggested for the updated service delivery report is set out below (quarterly data unless stated):
- 12 performance data TSMs
 - 10 perception survey data TSMs (annual survey data)
 - Tenancy enforcement data (as existing)

- Rent and debt data (as existing)
- Full repairs data including Decent Homes
- Voids data (metrics determined by updated Voids Management Policy)

2.12 The next service delivery report will also include final Q4 data and outturn for performance across 2022/23 under the existing reporting format for consistency.

2.13 Members of the PDG will also be able to use the new, draft updated service report format presented at the next meeting as an opportunity to consider whether there are further changes they wish to make regarding service performance and delivery information that they receive.

2.14 Whilst the new TSMs include three measures of complaints, as required, a separate in-depth annual report will be provided on complaints data and key lessons of learning in line with the requirements of the Housing Ombudsman Complaint Handling Code. The next annual report will also be provided at the next PDG covering the full period 2022/23.

2.15 In the meantime, under the current reporting format the following 2022/23 Q3 data is provided:

- Annex A – tenancy enforcement activities
- Annex B – tenancy safeguarding activities
- Annex C – building repairs and maintenance

3 Performance activity

Tenancy teams

3.1 Quarter 3 of this financial year was challenging in terms of staffing. The headcount is 24, which represents the equivalent of 20.84 full term employees. The turnover rate during the quarter was 12.5% with three experienced members of staff leaving to take up alternative positions elsewhere. We are currently in the process of repurposing the now defunct CSHO role, Community Support Housing Officers, to make use of the financial resource already in place, proposals for which are going forward to completion. We hope to have finalised the details of the proposed posts by the end of this financial year so that we have a full team and sufficient support in place for all Housing for 2023-2024.

3.2 MDH operates a specialist model of housing management and this means that there is a team specialising in income management. The voids and allocations team report to the same Neighbourhood Team Leader with the aim of supporting work to better sustain tenancies. The other Neighbourhood Team Leader is responsible for delivery of services related to tenancy and estate management by what is known as the Estates team. There was a high turnover of staff in the Income team during the quarter although staffing remained stable within the Estates team. The Income management team are now up to full strength so after the initial probation period is completed for all we hope to see a reduction in all arrears, current, former, leasehold etc.

- 3.3 The Neighbourhood Team has been shortlisted at the Resolve ASB awards for 'Team of the Year' due to be held in Birmingham on 30th March 2023 and relevant members of the Team will be attending in person.

Repairs and Maintenance teams

- 3.4 Within Building Services there are four separate teams each with a defined area of work, and although these teams are responsible for different areas they work collaboratively to ensure that we carry out any required works in the most efficient way.
- 3.5 **Responsive Team**, this team are responsible for all day to day maintenance jobs and are currently a team of 17 including 2 Apprentices and so far this year at the end of QTR3 they have completed over 5000 jobs with over 98.5% of these being completed within target.
- 3.6 **Planned Team**, this team of 6 are responsible for the management and supervision of the numerous modernisation works are carried out each year via individual contracts, these include works such as, Gas and Renewable servicing, Kitchen and Bathroom replacements, Re-roofing, window and door renewal and External painting. At the end of QTR3 all contracts are on target for the forecasted spend.
- 3.7 **Voids Team**, this team of 13 are responsible for all works that are needed for any property that becomes void including any works that are required to bring the property up to the 'Decent Homes Standard', this year has proven to be extremely challenging both in record numbers of Voids and the deteriorating condition of those returned.
- 3.8 **Commercial Team**, this team of 15 carry out works that include legislative works such as electrical, solid fuel and legionella testing and remedial works, Internal and External Major adaptations, Garage modernisations, Heating upgrades and replacements and are also nearing the completion of two new properties that are to be added to our housing stock. The team is currently on track to slightly exceed the projected income target of £2m, which is the highest it has ever been set.

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 Ashley Wilce, Cabinet Member for Housing
All Leadership team
All Corporate Management team
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>

New TSMs:

<https://www.gov.uk/government/consultations/consultation-on-the-introduction-of-tenant-satisfaction-measures/outcome/tenant-satisfaction-measures-summary-of-rsh-requirements-accessible>

Annex A

Tenancy Enforcement Activities

Neighbourhood & Community Standard – Housing Revenue Account – Estates Team						
	Q1	Q2	Q3	Q4	YTD	Comments
Fraud cases opened	4	0	2		6	There have been a number of fraud case begun this financial year which show that we are being proactive and during Feb 2023 a social media campaign will take place in order to highlight the impact of tenancy fraud and inviting people to report it.
Fraud cases referred to an external investigator	4	0	2		6	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.
Acceptable Behaviour Agreements signed	0	1	0		1	The Estates team are fully staffed now and gaining in experience but are still focussed on managing the priority areas of work in order to minimise risk to tenants and the organisation as a whole.
Good Neighbourhood Agreements signed	0	0	0		0	
Community Protection Notice warnings issued	0	0	0		0	Resourcing issues meant that the type of nuisance which can be addressed by means of these actions were given lower priority but now that the Estates team is fully staffed, we anticipate seeing more use of these tools going forward.
Community Protection Notices issued	0	0	0		0	
Possession Actions commenced on grounds of ASB	0	0	0		0	Work to manage serious anti-social behaviour has been ongoing over the year but did not result in any formal action to address issues being investigated although the close working relationship with the Police and other agencies resulted in joint working and other outcomes.

Closure Orders – obtained	0	0	0		0	
Injunctions sought	0	0	1		1	We sought and gained an interim injunction without notice in order to protect staff, we currently await a court date for a hearing where we will seek to have this injunction agreed going forward.
Evictions on grounds of anti-social behaviour/ other tenancy breach	0	0	0		0	

Income Recovery – Housing Revenue Account – Income Team						
	Q1	Q2	Q3	Q4	YTD	Comments
Current dwelling rent arrears at quarter end %	2.42	2.56	3.01			We now have a full Income management team in place, however, several members are still completing their probation period. Once more experience is gained we should see a decrease in all arrears, current, former, leasehold etc. Rent arrears continue to rise but over the quarter the number of current tenants claiming Universal Credit rose from 836 at the end of 2021/22 to 937 at the end of week 44, quarter 3. In December 2022, inflation hit a 40 year record high of 10.53%
Notice of Seeking possession served	50	75	77		202	These are being served to highlight to tenants that they have breached their conditions of tenancy and to prompt them to contact their Neighbourhood Officer to discuss their rent arrears.
Judgement obtained	1	2	5		8	Despite an increase in numbers, this fairly small number demonstrates how our team is trying to reach out to tenants and to engage with them in an effort to help them to sustain their tenancies.
Warrants issued	0	3	2		5	Eviction is a very last resort but sometimes needed as a way of resolving the issues or similar.
Evictions on grounds of rent arrears	1	1	0		2	

Annex B

Tenancy Safeguarding Activities

Neighbourhood & Community Standard – Housing Revenue Account						
	Q1	Q2	Q3	Q4	YTD	Comments
Domestic abuse cases opened	0	0	1		1	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	0			Officers attend the MARAC to offer support and advice as necessary.
Safeguarding referrals made (to all agencies)	0	3	1		4	Safeguarding is an important part of housing management and that all our staff receive appropriate training to ensure

Annex C

Building Repairs and Maintenance

Neighbourhood & Community Standard – Housing Revenue Account						
	Q1	Q2	Q3	Q4	YTD	Comments
Decent Homes Standard %	99.8	99.6	99.6			Target 100%
Emergency repairs completed on time %	100	100	99.8			Target 100% - 651/650 repairs.
Urgent repairs completed on time %	99.5	99.1	99.3			Target 95% - 777/769 repairs
Routine repairs completed on time %	99.1	97.6	98.6			Target 95% - 3604/3539 repairs
Repairs completed first visit %	99.4	99.3	99.4			Target 95% - 4770/4743 repairs
Gas safety checks %	98.93	98.61	99.28			Target 100% - 2229/2213 - Access has been the main contributing factor to the lower than target performance
Fire risk assessments %	100	100	100			Target 100%
Water safety checks (Legionella) %	99.9	99.8	99.6			Target 100% - Access has been the main contributing factor to the lower than target performance.
Number of void properties at quarter end	59	55	44			59 in total less 9 held for development and 4 ready to let = 44

Annex D

Regulator of Social Housing Tenant Satisfaction Measures

Overall satisfaction

TP01: Overall satisfaction

Keeping properties in good repair

TP02: Satisfaction with repairs

TP03: Satisfaction with time taken to complete most recent repair

TP04: Satisfaction that the home is well maintained

RP01: Homes that do not meet the Decent Homes Standard

RP02: Repairs completed within target timescale

Maintaining building safety

TP05: Satisfaction that the home is safe

BS01: Gas safety checks

BS02: Fire safety checks

BS03: Asbestos safety checks

BS04: Water safety checks

BS05: Lift safety checks

Respectful and helpful engagement

TP06: Satisfaction that the landlord listens to tenant views and acts upon them

TP07: Satisfaction that the landlord keeps tenants informed about things that matter to them

TP08: Agreement that the landlord treats tenants fairly and with respect

Effective handling of complaints

TP09: Satisfaction with the landlord's approach to handling complaints

CH01: Complaints relative to the size of the landlord

CH02: Complaints responded to within Complaint Handling Code timescales

Responsible neighbourhood management

TP10: Satisfaction that the landlord keeps communal areas clean and well maintained

TP11: Satisfaction that the landlord makes a positive contribution to neighbourhoods

TP12: Satisfaction with the landlord's approach to handling anti-social behaviour

NM01: Anti-social behaviour cases relative to the size of the landlord

Key:

TP = measured by tenant perception surveys/12 TSMs

RP = repair data (MDH performance/management information)/2 TSMs

BS = building safety data (MDH performance/management information)/5 TSMs

CH = complaints handling data (MDH performance/management information)/2 TSMs

NM = neighbourhood management data (MDH performance/management information) – 1 TSM

Annual report of the Chairman of the Homes PDG 2022 - 2023

The Homes PDG targets and aims for 2022/2023 were to see progress in:

1. Housing provision
2. Homelessness
3. The improvement of Mid Devon's tenants properties and environment
4. Housing standards in the private sector

The construction of the award-winning modular homes at St. Andrews is underway, with similar pods at Shapland Place, Tiverton (on the site of the former dilapidated garages). With all the hurdles to progress out of the way, completion and occupancy of these homes is possible before the end of this Council in May.

Additional Council building schemes are near to fruition at Siddalls Gardens and Beech Road, Tiverton.

Mid Devon's housing build programme for the next 5 years has around 500 homes planned including 70 at Post Hill (currently at the tender stage after consultation and planning consent) as just a small part of our ambitious Housing Strategy.

Our Neighbourhood Team has been commended for its innovative approach to tackling Anti-social behaviour and dealing with loan sharks preying on our tenants.

Homelessness is to be combated by two former HMO's being purchased to provide temporary accommodation to lessen the reliance on hotel's and B&B's etc. The successful bid for three year's rough sleeper funding for 2023 – 2025 (totalling £346,000) will be of great assistance.

The desperate plight of Ukrainian citizens has seen Mid Devon rising to the occasion. 70 plus hosts providing support for over 200 guests. Agreement is in place with DLUHC to draw down up to £1.3m of Local Authority Housing Fund monies to support provision of additional temporary accommodation to alleviate housing pressures under the Afghan and Ukraine schemes. The effective and rapid roll-out of support for these unfortunate souls is a credit to our officers and staff.

In the private sector, Damp and Mould legislation, with regard to the tackling of standards in private rented accommodation, has been embraced by our housing teams.

Also under the umbrella of the Homes PDG, mandatory tenant satisfaction measures, anti-social behaviour (and its effects) and other numerous matters, to the benefit of the public welfare, have been addressed.

The Homes PDG thank all officers and staff for their help, commitment and assistance.

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