

Scrutiny Committee

Monday, 18 March 2024 at 5.30 pm
Phoenix Chambers, Phoenix House, Tiverton

Next ordinary meeting
Monday, 15 April 2024 at 5.30 pm

Please Note: This meeting will take place at Phoenix House and members of the Public and Press are able to attend via Teams. 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.

The meeting will be Hybrid and an audio recording will be made and published on the website after the meeting

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Meeting ID: 379 253 571 702

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Membership

R Gilmour
G Westcott
D Broom
E Buczkowski
A Cuddy
G Czapiewski
G Duchesne
M Farrell
B Holdman
L Knight
R Roberts
S Robinson

A G E N D A

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 notices of appointment of substitute Members (if any).
- 2 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**
To record any interests on agenda matters.
- 3 **PUBLIC QUESTION TIME**
To receive any questions relating to items on the agenda from members of the public and replies thereto.

Note: A maximum of 30 minutes is allowed for this item.
- 4 **MINUTES OF THE PREVIOUS MEETING** *(Pages 5 - 28)*
To consider whether to approve the minutes as a correct record of the meeting held on....
- 5 **DECISIONS OF THE CABINET** *(Pages 29 - 38)*
To consider any decisions made by the Cabinet at its last meeting that have been called-in.
- 6 **CHAIRMAN'S ANNOUNCEMENTS**
To receive any announcements that the Chairman of Scrutiny Committee may wish to make.
- 7 **DEVON HOME CHOICE** *(Pages 39 - 86)*
To receive a report from the Corporate Manager for Public Health, Regulation and Housing
- 8 **CABINET MEMBER FOR THE WORKING ENVIRONMENT - PORTFOLIO PRESENTATION**
To receive a verbal presentation of her Portfolio from Councillor Jane Lock
- 9 **CABINET MEMBER FOR PLANNING AND ECONOMIC REGENERATION - PORTFOLIO PRESENTATION**
To receive a presentation from Councillor Steve Keable regarding his portfolio
- 10 **MOTION 583 - PROTECTING RIVERS AND SEAS** *(Pages 87 - 92)*
To receive a report from the Director of Place and Economy and to hear from Councillor O'Brien from Lewes District Council and Clarissa Newell the Area Environment Manager from the Environment Agency. Discussion to follow.

11 **WORK PROGRAMME** (Pages 93 - 98)

To review the existing Work Plan and consider items for the committee's future consideration, taking account of:

- a) Any items within the Forward Plan for discussion at the next meeting;
- b) Suggestions of other work for the committee in 2024/25.

Stephen Walford
Chief Executive
Friday, 8 March 2024

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

Members of the public are welcome to attend the meeting and listen to discussion. Lift access to the Council Chamber on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is time set aside at the beginning of the meeting to allow the public to ask questions.

An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, or

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

Tel: 01884 234311

E-Mail: dparker@middevon.gov.uk

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MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 19 February 2024 at 5.30 pm

Present

Councillors

R Gilmour (Chairman)
G Westcott (Vice Chairman), D Broom,
E Buczkowski, A Cuddy, G Czapiewski,
G Duchesne, M Farrell, B Holdman,
L Knight, R Roberts and S Robinson

Apologies

Councillor(s)

Also Present

Councillor(s)

J Buczkowski, F J Colthorpe, C Harrower, S Keable,
J Lock and D Wulff

Also Present

Officer(s):

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Maria De Leiburne (Director of Legal, HR & Governance (Monitoring Officer)), Richard Marsh (Director of Place & Economy), Dean Emery (Corporate Manager for Revenues, Benefits and Recovery), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Matthew Page (Corporate Manager for People, Governance and Waste), James Hamblin (HR Business Partner), Sarah Lees (Democratic Services Officer) and David Parker (Democratic Services & Policy Research Officer)

Councillors

Online

A Glover, L G J Kennedy, F W Letch and L Taylor

Officers Online

68 APOLOGIES AND SUBSTITUTE MEMBERS (0:03:55)

There were no apologies for absence.

69 DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (0:04:05)

Members were reminded of the need to make declarations of interest where appropriate. There were no interests declared under this item.

70 PUBLIC QUESTION TIME (0:04:17)

The following members of the public asked questions:

Goff Welchman

My questions refer to 3 Rivers, about which I have asked previous questions, but have received replies which were, in my opinion vague. In view of my time limit, I'll just summarise, by number of each lesson learned, the ones to which I would like to receive an exact reply.

The Chairman commented that many of these questions, or similar variants had been answered over the past year and a fairly detailed response was provided to Mr Welchman at our last meeting. However, to ensure further transparency she would allow these additional follow up queries.

Question 1. Lesson 1/. Were two external directors with relevant specialised skills, who were unrelated to the Council, in place from the outset?

Response: As confirmed on numerous occasions directors were appointed with the relevant specialised skills from the inception of the company - this decision was made by the Council after securing external professional legal and financial advice.

The Council did make 2 external appointments following additional advice at significant cost. It would be interesting to reflect how these additional overheads placed further financial viability pressure on the company at a time when their pipeline of potential development opportunities was being constricted.

Question 2. Lesson 3/. How was the board independent, when 3 directors were a Councillor and 2 Council officers, and exactly when was external banking advice sought, and from whom?

Response: At the outset, all directors were either seconded or recharged to the company - as was and is the case with many Council controlled trading entities. The Council was very clear on maintaining ethical walls and division of duties to minimise risk, both perceived and real.

Again professional external advice was secured prior to the Council making these appointments. External banking advice was secured when the company was set up - this came from NatWest Bank.

Question 3. Lesson 4/. Safeguarding and auditing of loans. Is it true that a 3 Rivers director, who was also a Council officer, requested loans, which were then signed off by another senior Council officer? Were there any checks or audits in place to safeguard these taxpayers' funds?

Response: There was clear separation of duties and a number of officers involved in the authorising of loans to the company. All sums related to invoices received from external suppliers were checked prior to releasing any payment.

As part of these checks, Council officers only ever approved amounts that were in full compliance with the approved sums agreed in business cases and the ultimate business plan agreed by the Council. These were also linked to approved loan agreements.

Question 4. Lesson 5/. Was St George's Court properly put out to tender, or was it just handed to 3 Rivers even before the company was fully set up?

Response: St George's Court was awarded to 3 Rivers by the Council as one of its earliest developments. It was then up to the company to decide how it would contract these works. The company isn't subject to the same procurement rules as the Council.

Question 5. Lesson 6/. When MDDC loans were made to 3 Rivers, was a full and proper risk assessment carried out, and if so, where is that recorded and approved?

Response: As explained in the answer to Lesson 4, the loan verification was agreed to amounts approved in company business cases and the business plan. These documents included all relevant risk assessments and updates against these risks were provided by the company to the Council at regular intervals.

Question 6. Lesson 9/. Was an agreed exit strategy in place right from the beginning, and if so, how was it approved, and by whom?

Response: No formal exit strategy was agreed by the Council. However, regular financial/risk reporting was provided to meetings for members to consider. Then a decision point to annually continue to invest, or not, would be made in the Council/Cabinet agreement, or not, of the company's annual business plan.

Responses from Deputy Chief Executive (S151) Officer

Nick Quinn

My first question relates to Agenda Item 9 – Establishment Update.

When the interim Establishment update was presented to Scrutiny on 14 August 2023, I asked if the Council had an organisation chart showing the areas of responsibility and reporting lines of all posts.

Councillor Gilmour responded by saying that the end of year Establishment report, set for February, would be the time for a formal structure chart - "*and that is something that, as Chair of Scrutiny, I would like to see happen*".

I asked if the chart would be published and Councillor Gilmour replied "Yes". The meeting minutes show that: "*The Chairman, in response, confirmed that one would be prepared and published*".

My Question is: Why has this not been done?

My second question relates to the Agenda item 11 - Planning Enforcement.

The proposed Enforcement Policy confirms that nothing will be done for the vast majority of reported breaches, but I would like to ask about one where something can be done.

A Planning Inspector has issued a decision on an appeal regarding a planning condition at the Anaerobic Digester plant at Red Linhay, outside Tiverton.

After commenting on "... *the alleged inaction since the earlier grant of permission for the anaerobic digester with the corresponding condition*", the Inspector made the decision that:

The noise assessment, and any works required as a result, must be completed within 6 months of this decision.

If this is not done, then: "*the use of the anaerobic digester shall cease until such time as a scheme is approved and implemented*".

My Question is: If the noise assessment and works required, at Red Linhay, have not been properly completed by 12 July 2024 - will this Council issue an immediate Stop Notice on this site?

The Chairman thanked Mr Quinn for his questions and indicated that as the questions had not been received two clear days in advance of the meeting that a written response would be provided.

Barry Warren

My questions are prompted from the report and documents the subject of Item 11 on your agenda.

The main heading of the report is 'Local Enforcement Plan Mid Devon District Council 2024' yet all the rest of the documentation is referred to as 'Local Planning Enforcement Policy'.

1. Is it a plan or a policy?

Ms Doyle had sent all members of Scrutiny Committee a very detailed response to the document which I hope you have all read as she raised issues which I would have raised. I was the Chairman of the working group which prepared the original report and recommendations on Planning Enforcement and this current document is not what we envisaged since it contained a lot of words but not a lot of policy that can or would be implemented.

2. I ask that this committee gives full attention to the document, and public comments, before recommending its acceptance by Cabinet?

Members had always been told by officers that there was no need for Planning Committee to oversee Planning Enforcement as this would be covered by the relevant Cabinet member. Paragraph 7.1 on page 11 of the document made reference that the *Service Lead of Legal may refer a matter to Planning Committee*.

3. Would the Planning Committee have an opportunity to see the policy document and have any say on the content?

In the report the word ‘**proportionate**’ appears six times in relation to action to be taken.

4. How is ‘proportionate’ or ‘proportionately’ interpreted by Officers at MDDC when deciding on actions?

I have received a letter from the Council alleging data breaches in relation to my use of emails. The letter accuses me of using my personal email account to write to officers in relation to non-enforcement of planning conditions some 5 months after I ceased to be a councillor! I understand a number of former councillors have also received letters including one who had forwarded a bus timetable from his Council email account! These actions must have taken considerable Officer time and resource to put together and it could be construed as discriminatory, intimidatory and bullying.

5. In the light of stated staff shortages, does this look like proportionate action and proper use of resources?

The Chairman thanked Mr Warren for his questions and indicated that as the questions had not been received two clear days in advance of the meeting that a written response would be provided.

Louise Doyle

QUESTION 1

In January, I asked the Authority to share with certain elected Members (appointed by Scrutiny or Planning) how they had categorised, investigated, resolved and closed cases in the past couple of years? In response, the Authority refused stating “enforcement activity is legally privileged”. I recognise the confidentiality of the requested spreadsheet would not contain personal info (why would it) confidentiality would be maintained. Further, Councillors are GDPR compliant.

This request was important because (oddly) 95% of cases are being categorized as low. Low means...

1. Minor tweaks to developments with permission or permitted development
2. Satellite dishes and
3. Some Advertising

Can I ask the Chair to please establish a working party to review cases before any revised Enforcement Plan is assessed by Enforcement given its ambition that 95% of cases moving forward will not be investigated.

QUESTION 2

I would like a complete response to my question 3 of January explaining the discrepancy in figures quoted to Scrutiny Committee in July versus those recorded at the Dept of Levelling Up re Notices.

QUESTION 3

In Jan, Committee was told that planning officers issuing template letters would mitigate having one enforcement officer/300 cases. I asked how many officer hours would be made available. The Authority had no figures. To what extent was this solution explored before being put to Scrutiny?

QUESTION 4

The Authority has been asked to improve their enforcement service by Scrutiny Committee.

How does having one enforcement officer in order to save £35K improve the service?

QUESTION 5

The Authority has put forward a revised Enforcement Plan. Is there a reason that the Authority has not clearly identified each of those changes to the Plan for members (ie this is what used to say and this is what it now says) with the impact or benefits of those change explained?

QUESTION 6

Why have the Authority swapped out the Enforcement Plan 2018 that has been on the website for 6 years with a revised version of the same at this point when members will need to compare.

QUESTION 7

The proposed Plan seeks to drop timelines/targets out of the Enforcement Plan for site visits and investigation periods

How will this result in an improvement to the enforcement service?

QUESTION 8

The Authority used to report against the same targets/performance indicators to Planning Committee.

Why was valuable reporting on performance scaled back, and why?

QUESTION 9

The proposed Enforcement Plan states that Low Priority cases will not be investigated when there are other higher priority cases (which is at all times). How will putting in place a plan to cut investigations so significantly improve the service?

QUESTION 10

The proposed Plan seeks to drop the Highest Priority category. How will this result in an improvement to the service?

QUESTION 11

The Plan places Breaches of Condition that are not impacting residential amenity or trees in the low category and therefore not being investigated. This undermines those “necessary” Conditions and is a green light for non-compliance by developers?

QUESTION 12

The Authority suggests the revised enforcement plan is similar to East Devon’s. The East Devon plan has timelines, targets and a commitment to investigate low/med/high breaches. Does the Authority, therefore, accept that the two approaches/services are chalk and cheese?

The Chairman thanked Ms Doyle for her questions and indicated that as the questions had not been received two clear days in advance of the meeting that a written response would be provided.

Paul Elstone

Question 1

My question relates to the Scrutiny Committee Workplan and concerns MDDC Pay Policy

A question I asked at Cabinet on the 6 February 2024 was worded along these lines: *“How can the grossly excessive pay increases of circa £24,000 or 33 percent and by circa £18,000 or near 21 percent be considered, in any circumstances, a decision that would not stand up to any scrutiny in private business”.*

When the Cabinet debated then voted to approve the proposed pay policy changes there was obvious unease. This resulting it is believed the Cabinet Member for Finance voting against the proposal and both of the Deputy Leaders abstaining.

It was evidenced that other Members did not support the proposals.

It is on record that the Council Leader in part justified these gross salary rises based on them being new Job's.

In the real business world being new jobs, there would be high level scrutiny including performance and competency check requirements. This given the magnitude of the role and salary changes. That the jobs would be externally advertised to see if there are better candidates.

Therefore, will this Scrutiny Committee fully investigate/scrutinise the merits or otherwise of the salary rise proposals?

Question 2

Can the Solicitor and Monitoring Officer please detail what is this Council's legal position when the perpetrator of a planning breach is shown beyond any doubt as providing repeated false and misleading information to the Council in support of avoiding enforcement? This for substantial financial gain.

Question 3

I has been stated by the Scrutiny Committee Chair that and I quote *“we will bring Enforcement up to scratch in the next 12 months”.*

At a Cabinet Meeting in June 2016 and in a report about Planning Enforcement Improvement and a report prepared by the current MDDC Chief Executive. Many of the things said then and proposed now are the exact same.

That rather than seeing any improvements the enforcement situation has gone backwards.

So, what is different given the same Executive Management and same if not much bigger problems? The public need to see tangible results.

Therefore, why should the Scrutiny Chair's statement be believed?

The Chairman thanked Mr Elstone for his questions and indicated that as the questions had not been received two clear days in advance of the meeting that a written response would be provided.

Sarah Coffin

My questions relate to Agenda Item: 11 – Enforcement.

Unfortunately, the Enforcement review merely reaffirms my own experiences from decades of interaction with this Council; Mid Devon pays lip service to providing a democratic and balanced Planning administration. All the proposed changes would do was ensure the enforcement waiting list continues to grow but in an orderly catalogued manner.

Given the declared importance of Enforcement issues within the Report is there an independent allocation within the budget, for Enforcement, or does it get included within the general Planning costs?

If the latter, I am sure Councillors will agree that intelligent and correctly worded Planning Approvals become even more imperative and can only be achieved via inclusive rather than selective assessment of all relevant facts?

Are Councillors aware that the Enforcement Notice EP/21/090/AN, served on 15 December 2021 by this Council, for the placement of an effective cover on a slurry/digestate pit, to prevent harmful organic emissions invading nearby homes; is still not in place?

Do Councillors appreciate that during this long delay caused by repeated broken promises, affected neighbours have been and are still subject to the risks of long time exposure; to what are acknowledged as hazardous emissions detrimentally affecting their wellbeing?

In view of time passed, investigation costs incurred (2017/18) by all relevant health/emergency/regulatory agencies and Scrutiny Committee, into complaints of fissured tongues, breathing difficulties, eye irritation, heart problems and digestion issues; why has Mid Devon not prosecuted the offending farmer/AD operator for non-compliance or fitted an effective cover on his behalf and claimed full reimbursement, as is permitted via the Environment Act?

The Chairman thanked Ms Coffin for her questions and indicated that as the questions had not been received two clear days in advance of the meeting that a written response would be provided.

71 MINUTES OF THE PREVIOUS MEETING (0:28:01)

The minutes of the meeting held on 18 December 2023 were approved as a correct record and **SIGNED** by the Chairman.

The minutes of the last meeting held on 15 January 2024 were approved as a correct record and **SIGNED** by the Chairman.

72 **DECISIONS OF THE CABINET (0:28:56)**

The Committee **NOTED** that none of the decisions made by the Cabinet on 6 February 2024 had been called in.

73 **CHAIRMAN'S ANNOUNCEMENTS (0:29:07)**

The Chairman had no announcements to make.

74 **WORK PROGRAMME (0:29:13)**

The Clerk to the Scrutiny Committee took the Committee through the Work Plan for 2024 – 2025. He pointed out that various regular reports had been added and that the Committee would hear from two Cabinet members about their portfolios at the next four meetings of the Scrutiny Committee. He also pointed out that there was plenty of room within the plan to add other matters to scrutinise.

75 **WHISTLEBLOWING ANNUAL REPORT (0:32:26)**

The Corporate Manager for People, Governance and Waste gave a verbal report that Mid Devon District Council had received no whistleblowing reports in the past six months until recently when a whistleblowing incident had been raised. That incident was now being investigated.

Discussion took place with regard to:

- Concern about the absence of whistleblowing and whether there was an environment that inhibited people from whistleblowing. The Corporate Manager for People, Governance and Waste replied that the Council promoted a culture of openness and transparency and whistleblowing incidents were treated properly and confidentially.
- The recent whistleblowing incident was the first occurrence of this nature for at least five years.
- The distinction between a complaint/grievance and whistleblowing. Whistleblowing was where there was an issue cited that was of public interest and concern.
- Whether there was an expected number of grievances annually. The Corporate Manager for People, Governance and Waste said that that depended upon a number of factors, particularly what was happening within the Council at a particular point in time as well as other factors. The Corporate Manager said he was happy to look at what data could be potentially shared with Members in future reports but would need to ensure that both data protection and appropriate levels of confidentiality were maintained around any statistics published.

76 **ESTABLISHMENT UPDATE (0:39:54)**

The Committee had before it and **NOTED** a report on the Establishment.

The Corporate Manager for People, Governance and Waste replied to the question from Mr Quinn that, the Establishment report made clear on the front cover that a full establishment structure chart would be circulated once the current consultation on the Corporate Management Team had been completed.

The Operations Manager for Human Resources introduced the Establishment Update. The three key metrics were, sickness, agency spend and staff turnover.

- Sickness was at its highest for four years and new ways of working were being found such as inoculations being offered to members of staff.
- Agency spend this year was down by 37% year on year.
- Staff turnover was down by 3.7% year on year with the current projections for 23/24 down by 16.5%. Initiatives and new ways of working continued including the rollout of Mental Health Champions across the Council, reviewing employee benefits and supporting staff with access to seasonal vaccinations.
- Work was underway on the staff survey action plan.
- The negotiations for the 2024/25 pay award had begun.

Discussion took place regarding:

- The fact that the Council's use of agency staff had decreased.
- Greater scrutiny and discussion about the establishment.
- Vacancies were reviewed on a weekly basis to decide whether they should go forward for recruitment or delay the appointment. There had been a shift in the market with the workforce preferring secure employment rather than agency work.
- Whether there was a correlation between delays in filling staff vacancies and staff sickness – the Operations Manager for Human Resources said that he would investigate that further. However, Mid Devon District Council's sickness levels ran very similar to other Councils across the country. Trends and patterns were being looked at. Further recruitment training was being offered to managers to make sure that they recruited the right person with the correct experience.
- The calibre of applicants and how they were recruited.
- The Appraisal process varied from organisation to organisation, roll out of the new process would be this year so that employees could understand how they were contributing to the Council. The Appraisal Policy should be collaborative.
- Managers will involve employees with the setting of objectives although managers may set the focus or direction. On the whole it is a collaborative process, but employees are encouraged to give their views so that it should be a beneficial process both to manager and member of staff.
- Mental Health – there were a cohort of staff across the Council who were 'Mental Health Champions' and the Champions themselves received support from an Employee Assistance Programme staffed by people who were trained counsellors. However, on a one to one structure the first point of call for any staff member should be their line manager, it was important that staff felt that they were able to raise issues.

- Staff Survey – how did staff who did not have their own e-mail address get a chance to respond? Staff were employed over a variety of services meaning that some staff did not use a lap-top or iPad on a day to day basis, for that reason they would not have an e-mail address. The strategy for dealing with those staff was that they had regular team meetings (or toolbox talks). Updates were provided through the “LINK” which was printed for their staff rooms.
- What proportion of the staff worked from home and from that could one extrapolate sickness between those who worked from home and those who worked at Phoenix House? It was confirmed that hybrid working was 50% across the organisation. For those that could work in this way 90% had signed up for it but of those, a lot at different times prefer to be in the office. Presenteeism – staff may be unwell but continued to work from home despite specifically not being required to do so. With regard to sickness absence and the split between staff that work in a hybrid way and those that work on site - that data would be available with the next Establishment report.
- “I love my job” ethos – melding of the organisation’s needs with employee’s aspiration, generating a sense of belonging.
- Apprenticeships – both traditional apprenticeships and upskilling apprenticeships were available for all staff to enable them to do more.

77 **MOTION 564 - INCLUSIVITY AND COMMUNITY ENGAGEMENT (1:05:35)**

Councillor Westcott introduced the report from the Inclusion and Diversity Working Group which followed on from Motion 564 passed by Council in 2021. The first discussion with women Councillors had taken place. Discussions had taken place around the appointment of those candidates who work. The Group had not restricted themselves to just looking at issues faced by women candidates, they had also looked at disability access in conjunction with the Equality Diversity and Inclusion (EDI) Group chaired by the Corporate Performance and Improvement Manager.

The interim conclusions of the working group were that there should be training on protected characteristics, more interactive training for the Chairs and Vice Chairs of committees regarding inclusivity which might include more experiential things like the ice-breaker sessions that Councillors had at the start of their training, the Group would also like the questionnaire to be put to all Members regarding the timing of meetings and removing obstacles to any group.

The Chairman thanked the group for the work that they had done so far.

Discussion took place with regard to:

- Whether the group were consulting with officers as well as Members about meeting times.
- That the Council should lobby Central Government to allow Members to vote when attending meetings on-line.

The Recommendations of the Working Group were:

- Democratic Services arrange in house training for all Councillors in protected characteristics
- In addition to the existing training for chairs and vice chairs, they should receive interactive training in inclusive practices. Following the assessment of current training completed by Members currently under way, Democratic Services are preferably requested to source and commission a suitable external agency to offer this training to Councillors and officers.
- The working group should work with Democratic Services to conduct a survey of all councillors on their views on increasing inclusion and diversity, and any preferences about timing of meetings.
- Further conversation should take place on how best to mitigate obstacles for women, people with caring responsibilities and other defined groups in becoming Councillors and in fulfilment of their role.

A vote was taken on whether to accept the recommendations made in the report which was **CARRIED.**

78 **PLANNING ENFORCEMENT (1:19:13)**

The Director of Place and Economy introduced the Planning Enforcement Policy Update. The aim of the update was to bring the Planning Enforcement Policy up to date and to provide clarity. The Policy had been through the Planning Policy Advisory Group (PPAG) and the Planning Committee.

Discussion took place with regard to:

- Lower priority cases would be investigated when commitments to higher priority cases allowed.
- There were a lot of discrepancies and a lack of detail.
- The impact upon human lives and the cost to the Council of failing to enforce planning decisions.

Councillor Duchesne made the following proposal: In the light of what we have heard today and the detailed comments made by members of the public, who clearly have had time to go into this matter in far greater detail than we have been able to, may I suggest that this policy is not ready to be passed to Cabinet and that it should be returned to the Planning Policy Advisory Group where it can be discussed and amended as required. All Councillors are able to attend PPAG so I suggest that we all attend the meeting that will be discussing that and make sure that our concerns are dealt with.

Councillor Gilmour seconded the proposal.

Councillor Buczkowski proposed an amendment that the policy was sent to Cabinet rather than back to PPAG so that it could be discussed and Cabinet could refer it back to PPAG if necessary.

Councillor Knight seconded the amendment.

Discussions took place regarding:

- The role of the Scrutiny Committee was to scrutinise not just to pass on to Cabinet. Once it had been revised by PPAG it should be brought back to the Scrutiny Committee. The Director of Place and Economy had no problem with that approach and wanted the policy to be a robust document. There were no legal time constrictions which had to be complied with.
- Key Performance Indicators to be added to the policy.
- If this was referred back to the PPAG it might be a waste of time as the last time that this policy was before the PPAG it was a well-attended meeting, lots of good points had been made at that meeting and the recommendation bringing this document to the Scrutiny Committee had been unanimous.
- The administration had inherited a legacy and were only nine months in place, there was still a lot of work to do. The budget they had inherited had a black hole of just under one million pounds, that hole had been plugged without loss of staff and the staff were motivated.
- The PPAG would stay involved and not ignore planning enforcement.

The amendment was not supported.

The original proposal was voted upon and was **CARRIED**

(The meeting ended at 7.05 pm)

CHAIRMAN

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Responses to Public Questions not sent prior to the meeting

Nick Quinn

My first question relates to Agenda Item 9 – Establishment Update.

When the interim Establishment update was presented to Scrutiny on 14 August 2023, I asked if the Council had an organisation chart showing the areas of responsibility and reporting lines of all posts.

Councillor Gilmour responded by saying that the end of year Establishment report, set for February, would be the time for a formal structure chart - "*and that is something that, as Chair of Scrutiny, I would like to see happen*".

I asked if the chart would be published and Councillor Gilmour replied "Yes". The meeting minutes show that: "*The Chairman, in response, confirmed that one would be prepared and published*".

My Question is: Why has this not been done?

Response: The Establishment report makes clear on the front cover that a full establishment chart will be circulated once the current consultation on the Corporate Management Team has been completed.

Response from the Corporate Manager for People, Governance and Waste

My second question relates to the Agenda item 11 - Planning Enforcement.

The proposed Enforcement Policy confirms that nothing will be done for the vast majority of reported breaches, but I would like to ask about one where something can be done.

A Planning Inspector has issued a decision on an appeal regarding a planning condition at the Anaerobic Digester plant at Red Linhay, outside Tiverton.

After commenting on "... *the alleged inaction since the earlier grant of permission for the anaerobic digester with the corresponding condition*", the Inspector made the decision that:

The noise assessment, and any works required as a result, must be completed within 6 months of this decision.

If this is not done, then: "*the use of the anaerobic digester shall cease until such time as a scheme is approved and implemented*".

My Question is: If the noise assessment and works required, at Red Linhay, have not been properly completed by 12 July 2024 - will this Council issue an immediate Stop Notice on this site?

Response: The council will monitor compliance with this condition and act appropriately and proportionately in considering any enforcement activity. It should be noted that in this case, the council had originally sought a shorter-timetable for the submission of the noise assessment (1 month), but this period was extended to 3 months by the Inspector during the appeal process. This clearly shows the council's intent to resolve this matter in a timely manner.

Response from the Director of Place and Economy

Barry Warren

My questions are prompted from the report and documents the subject of Item 11 on your agenda.

The main heading of the report is 'Local Enforcement Plan Mid Devon District Council 2024' yet all the rest of the documentation is referred to as 'Local Planning Enforcement Policy'.

1. Is it a plan or a policy?

Response: The document is a policy.

Response from the Director of Place and Economy

Ms Doyle had sent all members of Scrutiny Committee a very detailed response to the document which I hope you have all read as she raised issues which I would have raised. I was the Chairman of the working group which prepared the original report and recommendations on Planning Enforcement and this current document is not what we envisaged since it contained a lot of words but not a lot of policy that can or would be implemented.

2. I ask that this committee gives full attention to the document, and public comments, before recommending its acceptance by Cabinet?

Response: The Committee responded to this plea during the meeting.

Members had always been told by officers that there was no need for Planning Committee to oversee Planning Enforcement as this would be covered by the relevant Cabinet member. Paragraph 7.1 on page 11 of the document made reference that the *Service Lead of Legal may refer a matter to Planning Committee.*

3. Would the Planning Committee have an opportunity to see the policy document and have any say on the content?

Response: The planning committee and the Planning Policy Advisory Group have both had advanced sight of the draft policy and the opportunity to consider and discuss the content of it.

Response from the Director of Place and Economy

In the report the word '**proportionate**' appears six times in relation to action to be taken.

4. How is 'proportionate' or 'proportionately' interpreted by Officers at MDDC when deciding on actions?

Response: This is looking at proportionate action being relative to the nature of harm caused.

Response from the Director of Legal, HR & Governance (Monitoring Officer)

I have received a letter from the Council alleging data breaches in relation to my use of emails. The letter accuses me of using my personal email account to write to officers in relation to non-enforcement of planning conditions some 5 months after I ceased to be a councillor! I understand a number of former councillors have also received letters including one who had forwarded a bus timetable from his Council email account! These actions must have taken considerable Officer time and resource to put together and it could be construed as discriminatory, intimidatory and bullying.

5. In the light of stated staff shortages, does this look like proportionate action and proper use of resources?

Response: The Council takes its legal responsibilities as a data controller extremely seriously. Council staff and Councillors are required to adhere to various policies and practices around data security and retention in order to comply with these duties. In the event of a data breach the Council may refer the matter to the Information Commissioners Office for advice and guidance on appropriate action. The Council would then follow that guidance to ensure that we are compliant with the regulations around data security.

It is a matter of some regret that the Council has had to write to a small number of former Councillors reminding them of the need to comply with data management practices. However, it is important that the Council takes appropriate action to ensure the effective management of data in accordance with our policies.

Response from the Director of Legal, HR & Governance (Monitoring Officer)

Louise Doyle

QUESTION 1 – QUESTION TO CHAIR

In January, I asked the Authority to share with certain elected members (appointed by Scrutiny or Planning) how they had categorised, investigated, resolved and closed cases in the past couple of years. In response, the Authority refused stating "enforcement activity is legally privileged". I recognise the confidentiality of the requested spreadsheet would not contain personal info (why would it) confidentiality would be maintained. Further councillors are GDPR compliant.

This request was important because (oddly) 95% of cases are being categorized as low. Low means...

1. Minor tweaks to developments with permission or permitted development
2. Satellite dishes and
3. Some Advertising

Can I ask the Chair to please establish a working party to review cases before any revised Enforcement Plan is assessed by Enforcement given its ambition that 95% of cases moving forward will not be investigated?

RESPONSE: The Scrutiny committee has shown an active interest in the work of our planning enforcement team and will continue to keep a keen eye on both KPI's and overall performance. The relevant Cabinet member, Councillor Keable, is also actively involved in the service and the proposed policy is to go before PPAG again prior to re-presentation. I therefore consider there to be no need to establish a working group at this time.

QUESTION 2 – QUESTION TO RICHARD MARSH

I would like a complete response to my question 3 of January explaining the discrepancy in figures quoted to Scrutiny Committee in July versus those recorded at the Department of Levelling Up re Notices.

RESPONSE: As previously advised; there is no discrepancy in figures, rather they relate to two differing time periods.

QUESTION 3

In Jan, Committee was told that planning officers issuing template letters would mitigate having one enforcement officer/300 cases. I asked how many officer hours would be made available. The Authority had no figures. To what extent was this solution explored before being put to Scrutiny?

RESPONSE: As was previously set out; the hours which can be dedicated by planning officers to supporting the work of the enforcement team will necessarily vary according to the number and complexity of planning applications. The measure was implemented as a mechanism to use spare officer capacity to support enforcement work and, as such, is a good use of existing and skilled officer resource. This was understood prior to its implementation.

QUESTION 4

The Authority has been asked to improve their enforcement service by Scrutiny Committee.

How does having one enforcement officer in order to save £35K improve the service?

RESPONSE: The authority is committed to sustaining a dedicated enforcement service whilst managing within its limited financial means. The Council will be seeking to advertise and replace its permanent officer resource within planning enforcement in the near future but we continue to have interim agency cover whilst this happens. However, it is also important to note that all Council services have been seeking to realise savings in order to ensure the Council can achieve in year savings and a balanced budget.

QUESTION 5

The Authority has put forward a revised Enforcement Plan. Is there a reason that the Authority has not clearly identified each of those changes to the Plan for members (ie this is what used to say and this is what it now says) with the impact or benefits of those change explained?

RESPONSE: The draft enforcement plan was discussed with members who had the opportunity to ask questions and raise comment – indeed PPAG recommended its approval. At the point of recommending a revised policy for approval, it is obviously necessary to include a final version of that policy (rather than a marked-up version) to ensure that it is clear what members are considering and approving.

QUESTION 6

Why have the Authority swapped out the Enforcement Plan 2018 that has been on the website for 6 years with a revised version of the same at this point when members will need to compare.

RESPONSE: The current enforcement plan remains on the Council's website.

QUESTION 7

The proposed Plan seeks to drop timelines/targets out of the Enforcement Plan for site visits and investigation periods

How will this result in an improvement to the enforcement service?

RESPONSE: The revised plan seeks to clarify how the service will work in considering planning enforcement matters. It seeks to deliver a policy which is easier to interpret, more reflective of current enforcement practice and policy and which therefore gives greater clarity to the public in terms of what Mid Devon will seek to do. The timescales which are present in the current policy have been removed from the new policy as they are considered to be arbitrary and risk giving false expectations in terms of how quickly the Council will be able to consider some types of alleged breaches.

QUESTION 8

The Authority used to report against the same targets/performance indicators to Planning Committee.

Why was valuable reporting on performance scaled back, and why?

RESPONSE: The 'old' KPI's had not been reported against for some considerable time (2021) owing to staff capacity and workload. The 'new' KPI's are reported to planning committee on a regular basis and are considered to currently give a useful level of detail on workload within the service.

QUESTION 9

The proposed Enforcement Plan states that Low Priority cases will not be investigated when there are other higher priority cases (which is at all times). How will putting in place a plan to cut investigations so significantly improve the service?

RESPONSE: The Council is seeking to balance a desire to deliver a good, discretionary enforcement service whilst also managing within limited financial means. Naturally, this means that the level of resource directed to planning enforcement is finite and resources are therefore naturally directed to those cases which are considered to be of highest risk, most urgent and where the greatest risk of harm arises. This is a pragmatic and reasonable approach.

QUESTION 10

The proposed Plan seeks to drop the Highest Priority category How will this result in an improvement to the service?

RESPONSE: The notion of having 'high' and 'highest' is not considered to add value as all 'high' priority cases will naturally be prioritised by the service and officers.

QUESTION 11

The Plan places Breaches of Condition that are not impacting residential amenity or trees in the low category and therefore not being investigated. This undermines those "necessary" Conditions and is a green light for non-compliance by developers?

RESPONSE: The LPA does not in any way condone non-compliance with planning conditions and expects all developers/applicants to abide by the terms of planning permissions. Where they do not, enforcement action will be considered in line with policy.

Response from the Director of Place and Economy

QUESTION 12

The Authority suggests the revised enforcement plan is similar to East Devon's. The East Devon plan has timelines, targets and a commitment to investigate low/med/high breaches. Does the Authority, therefore, accept that the two approaches/services are chalk and cheese?

RESPONSE: The policy is substantively based upon the East Devon policy but has been considered and refined by officers, with member input, and a revised policy set out for consideration. Obviously, further to the recent Scrutiny meeting, there is now an opportunity for further member input.

Paul Elstone

Question 1

My question relates to the Scrutiny Committee Workplan and concerns MDDC Pay Policy

A question I asked at Cabinet on the 6 February 2024 was worded along these lines: *"How can the grossly excessive pay increases of circa £24,000 or 33 percent and by circa £18,000 or near 21 percent be considered, in any circumstances, a decision that would not stand up to any scrutiny in private business".*

When the Cabinet debated then voted to approve the proposed pay policy changes there was obvious unease. This resulting it is believed the Cabinet Member for Finance voting against the proposal and both of the Deputy Leaders abstaining.

It was evidenced that other Members did not support the proposals.

It is on record that the Council Leader in part justified these gross salary rises based on them being new Job's.

In the real business world being new jobs, there would be high level scrutiny including performance and competency check requirements. This given the magnitude of the role and salary changes. That the jobs would be externally advertised to see if there are better candidates.

Therefore, will this Scrutiny Committee fully investigate/scrutinise the merits or otherwise of the salary rise proposals?

Response: As indicated, this question was asked at Cabinet. The response provided by the Leader was: These changes represent a saving to the council of over £45,000 and I thank the officers in question for taking on these new roles and responsibilities, so that we can continue to ensure we are running the council in the most efficient way possible.

Response provided by the Chief Executive

Question 2

Can the Solicitor and Monitoring Officer please detail what is this Council's legal position when the perpetrator of a planning breach is shown beyond any doubt as providing repeated false and misleading information to the Council in support of avoiding enforcement? This for substantial financial gain.

Response: When considering planning enforcement matters, the Council will, if a breach is apparent, seek information from any owner or occupier of the land. A Planning Contravention Notice (PCN) can be issued which will instruct the recipient to provide the LPA with requested information for enforcement purposes.

Failure to comply with a PCN is an offence, as is knowingly and/or recklessly making false or misleading statements. The penalties on summary conviction are currently £1000 & £5000 respectively.

The Council will always be mindful of this when considering any information pertaining to planning enforcement matters.

Response from the Director of Place and Economy

Question 3

I has been stated by the Scrutiny Committee Chair that and I quote "*we will bring Enforcement up to scratch in the next 12 months*".

At a Cabinet Meeting in June 2016 and in a report about Planning Enforcement Improvement and a report prepared by the current MDDC Chief Executive. Many of the things said then and proposed now are the exact same.

That rather than seeing any improvements the enforcement situation has gone backwards.

So, what is different given the same Executive Management and same if not much bigger problems? The public need to see tangible results.

Therefore, why should the Scrutiny Chair's statement be believed?

Response: The Council chooses to employ dedicated enforcement staff despite the fact it is a discretionary, non-fee earning service and at a time when the Council faces ongoing and significant financial pressures. This therefore demonstrates the Council's clear commitment to providing a robust enforcement service.

It is unfortunate that the Council is currently in a position of not having any permanent enforcement staff, but the Council has successfully recruited an agency enforcement officer to ensure that work continues whilst we again seek to recruit permanent staff.

The Council will also continue to work to ensure that the enforcement service returns to a sustainable position in order to implement planning enforcement in line with the new enforcement policy, once duly adopted.

Response from the Director of Place and Economy

Sarah Coffin

My questions relate to Agenda Item: 11 – Enforcement.

Unfortunately, the Enforcement review merely reaffirms my own experiences from decades of interaction with this Council; Mid Devon pays lip service to providing a democratic and balanced Planning administration. All the proposed changes would do was ensure the enforcement waiting list continues to grow but in an orderly catalogued manner.

Given the declared importance of Enforcement issues within the Report is there an independent allocation within the budget, for Enforcement, or does it get included within the general Planning costs?

Response: The Council provides for enforcement officers within the establishment – hence these are posts which are separate and distinct from planning officer roles.

Response from the Director of Place and Economy

If the latter, I am sure Councillors will agree that intelligent and correctly worded Planning Approvals become even more imperative and can only be achieved via inclusive rather than selective assessment of all relevant facts?

Are Councillors aware that the Enforcement Notice EP/21/090/AN, served on 15 December 2021 by this Council, for the placement of an effective cover on a slurry/digestate pit, to prevent harmful organic emissions invading nearby homes; is still not in place?

Response: We can confirm that the notice EP/21/090/AN was complied with as the Farm installed an aggregate based floating cover. This notice has now been superseded and part of the current notice is to continue to ensure that a suitable cover is installed and maintained. The Council has been notified that a new Hexa cover is due to be installed.

Response from the Director of Place and Economy

Do Councillors appreciate that during this long delay caused by repeated broken promises, affected neighbours have been and are still subject to the risks of long time exposure; to what are acknowledged as hazardous emissions detrimentally affecting their wellbeing?

Response: As set out; the previous notice was complied with and it is considered that this addressed any odour issued arising from the pit.

Response from the Director of Place and Economy

In view of time passed, investigation costs incurred (2017/18) by all relevant health/emergency/regulatory agencies and Scrutiny Committee, into complaints of fissured tongues, breathing difficulties, eye irritation, heart problems and digestion issues; why has Mid Devon not prosecuted the offending farmer/AD operator for non-compliance or fitted an effective cover on his behalf and claimed full reimbursement, as is permitted via the Environment Act?

Response: All complaints and concerns as above have been fully investigated. Due to there being a number of abatement notices served over the years, we recently reviewed and served a new single notice to ensure clarity and avoid a confusing compliance picture for the operator and residents alike. We continue to monitor compliance with the notice for any breaches and, as set out above and as a consequence of Council action, a new, improved cover is expected to be installed shortly.

Response from the Director of Place and Economy

MID DEVON DISTRICT COUNCIL – NOTIFICATION OF KEY DECISIONS



March 2024

The Forward Plan containing key Decisions is published 28 days prior to each Cabinet meeting

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
March					
Customer Care Policy To receive the updated Customer Care Policy	Community Policy Development Group Cabinet	23 Jan 2024 5 Mar 2024	Lisa Lewis Corporate Manager for Digital Transformation and Customer Engagement	Cabinet Member for Working Environment	Open
Environment Educational Enforcement Policy	Environment Policy Development Group Cabinet	23 Jan 2024 5 Mar 2024	Matthew Page, Corporate Manager for People, Governance and Waste	Cabinet Member for Environment and Services	Open
3Rivers soft closure progress update	Cabinet	5 Mar 2024	Andrew Jarrett, Deputy Chief Executive (S151)	Cabinet Member for Finance	Part exempt

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Agenda Item 5

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
April					
Planning Enforcement-Enforcement Policy Update	Scrutiny Committee Cabinet	19 Feb 2024 2 Apr 2024	Angharad Williams, Development Management Manager	Cabinet Member for Planning and Economic Regeneration	Open
Corporate Performance Q3; Corporate Risk Q3; Performance Dashboard Q3	Cabinet	1 Apr 2025	Matthew Page, Corporate Manager for People, Governance and Waste	Leader of the Council	Open
Single Equalities Policy and Equality Objective	Community Policy Development Group Cabinet	26 Mar 2024 4 Jun 2024	Matthew Page, Corporate Manager for People, Governance and Waste,	Cabinet Member for Community & Leisure	Open
Contractor for the Licensed Asbestos Surveying and Removal Works 2024 - 2028	Cabinet	5 Mar 2024	Mike Lowman, Building Services Operations Manager	Cabinet Member for Housing and Property Services	Part exempt

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
Contractor for the Unlicensed Asbestos Surveying and Removal Works 2024 - 2028	Cabinet	5 Mar 2024	Mike Lowman, Building Services Operations Manager	Cabinet Member for Housing and Property Services	Part exempt
Silverton Neighbourhood Plan	Cabinet Council	2 Apr 2024 24 Apr 2024	Tristan Peat, Forward Planning Team Leader	Cabinet Member for Planning and Economic Regeneration	Open
Report of the Car Parking Working Group	Economy Policy Development Group Cabinet	7 Mar 2024 2 Apr 2024	Matthew Page, Corporate Manager for People, Governance and Waste	Cabinet Member for Planning and Economic Regeneration	Open
Serious Violence Duty Strategy	Community Policy Development Group Cabinet Council	26 Mar 2024 2 Apr 2024 24 Apr 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Community & Leisure	Open
Residents Survey	Cabinet	2 Apr 2024	Andrew Jarrett, Deputy Chief Executive (S151)		Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
The Statutory Duty to Conserve and Enhance Biodiversity	Cabinet	2 Apr 2024	Jason Ball, Climate and Sustainability Specialist	Cabinet Member for Climate Change	Open
June					
Tenure Reform and Changes to the Tenancy Agreement - Project Plan To receive a project plan to tenure reform	Homes Policy Development Group Cabinet	21 Nov 2023 5 Mar 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing.	Cabinet Member for Housing and Property Services	Open
S106 Governance	Cabinet	5 Mar 2024	Joanna Williams, Planning Obligations Monitoring Officer	Cabinet Member for Finance	Open
Council Productivity Plan	Cabinet	4 Jun 2024	Andrew Jarrett, Deputy Chief Executive (S151)		Open
Corporate Health and Safety Policy To receive the updated Corporate Health and Safety Policy	Community Policy Development Group Cabinet	26 Mar 2024 4 Jun 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing.	Cabinet Member for Community & Leisure	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
CCTV Policy To receive the updated CCTV Policy	Community Policy Development Group Cabinet	26 Mar 2024 4 Jun 2024	Andrew Jarrett, Deputy Chief Executive (S151)	Cabinet Member for Community & Leisure	Open
Community Safety Partnership (CSP)	Community Policy Development Group Cabinet	26 Mar 2024 4 Jun 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing		Open
Safeguarding Policy	Community Policy Development Group Cabinet	26 Mar 2024 4 Jun 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Community & Leisure	Open
July					
Corporate Risk Q4; Annual Performance Report; Performance Dashboard Q4	Cabinet	2 Jul 2024	Dr Stephen Carr, Corporate Performance & Improvement Manager	Leader of the Council	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
SFS (Specialist Fleet Services) Transport Contract	Economy Policy Development Group Cabinet	20 Jun 2024 2 Jul 2024	Matthew Page, Corporate Manager for People, Governance and Waste	Cabinet Member for Planning and Economic Regeneration	Open
Town and Parish Charter	Community Policy Development Group Cabinet	23 Jan 2024 30 Jul 2024	Richard Marsh, Director of Place & Economy	Cabinet Member for Community & Leisure	Open
Corporate Anti Social Behaviour Policy	Community Policy Development Group Cabinet	26 Mar 2024 2 Jul 2024	Richard Marsh, Director of Place & Economy	Cabinet Member for Community & Leisure	Open
Income Management Policy To receive the revised Income Management Policy.	Homes Policy Development Group Cabinet	11 Jun 2024 2 Jul 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Housing and Property Services	Open
Hoarding Policy To receive the revised Hoarding Policy.	Homes Policy Development Group Cabinet	11 Jun 2024 2 Jul 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Housing and Property Services	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
Right to Buy Policy (New) To receive the new Right to Buy Policy.	Homes Policy Development Group Cabinet Council	11 Jun 2024 2 Jul 2024 17 Jul 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Housing and Property Services	Open
July					
August					
Corporate Performance Q1; Corporate Risk Q1	Cabinet	27 Aug 2024	Dr Stephen Carr, Corporate Performance & Improvement Manager	Leader of the Council	
Repairs and Maintenance Policy (New) To receive the new Repairs and Maintenance Policy.	Homes Policy Development Group Cabinet Council	6 Aug 2024 27 Aug 2024 4 Sep 2024	Mike Lowman, Building Services Operations Manager	Cabinet Member for Housing and Property Services	Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
September					
Performance Dashboard Q1 Page 36	Cabinet	17 Sep 2024	Dr Stephen Carr, Corporate Performance & Improvement Manager	Leader of the Council	
	Homes Policy Development Group	24 Sep 2024			
	Economy Policy Development Group	3 Oct 2024			
	Environment Policy Development Group	8 Oct 2024			
	Planning Committee	9 Oct 2024			
Community Policy Development Group	22 Oct 2024				
October					
Tenancy Management Policy To receive the revised Tenancy Management Policy.	Homes Policy Development Group	24 Sep 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Housing and Property Services	Open
Cabinet	15 Oct 2024				

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
November					
Economic Strategy 2024 - 2029	Economy Policy Development Group Cabinet	14 Nov 2024 10 Dec 2024	Adrian Welsh, Strategic Manager for Growth, Economy and Delivery	Cabinet Member for Planning and Economic Regeneration	Open
Destination Management Plan for Mid Devon	Economy Policy Development Group Cabinet	14 Nov 2024 10 Dec 2024	Adrian Welsh, Strategic Manager for Growth, Economy and Delivery Tel: 01884 234398	Cabinet Member for Planning and Economic Regeneration	Open
December					
Corporate Performance Q2; Corporate Risk Q2; Performance Dashboard Q2	Cabinet	10 Dec 2024	Dr Stephen Carr, Corporate Performance & Improvement Manager	Leader of the Council	
Phoenix House Accommodation Opportunities	Cabinet		Andrew Jarrett, Deputy Chief Executive (S151)		Open

Title of report and summary of decision	Decision Taker	Date of Decision	Officer contact	Cabinet Member	Intention to consider report in private session and the reason(s)
Tenancy Strategy To receive the revised Tenancy Strategy	Homes Policy Development Group Cabinet	19 Nov 2024 10 Dec 2024	Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing	Cabinet Member for Housing and Property Services	Open



Report for: Scrutiny

Date of Meeting: 18 March 2024

Subject: **DEVON HOME CHOICE REVIEW**

Cabinet Member: Councillor Simon Clist, Cabinet Member for Housing and Property

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

Exempt: Not Applicable

Wards Affected: All

Enclosures: Annex A – Member DHC briefing presentation 15 February 2024

Section 1 – Summary and Recommendation(s)

At Council on 22nd Feb 2023 Motion 590 from Cllr Penny was carried. The final wording was:

This Council agrees that a review of the current practice of housing allocation by Devon Home Choice takes place, together with a review of the Council's performance and plans in delivering affordable and social rented housing. A number of residents have raised concerns over the lack of available social housing opportunities for the people of Mid Devon within the current scheme. The Council resolves to ask the Scrutiny Committee to commission this review and to report to Council and Cabinet as soon as possible.

Since the motion was carried the Council administration has changed and a briefing for new Members on Devon Home Choice (DHC) was necessary in order to provide the current cohort of Members with the necessary information and context regarding the scheme. This briefing was completed as part of a second wave of member induction briefings on 15 February 2024.

The briefing and Section 2 below set out the legal and wider context for DHC as a choice-based lettings approach to meet the requirement to have a published social housing allocation policy and a consistent, transparent approach. It also provides a key overview of the policy itself, the local context and the cyclical policy review process which is currently in progress.

The briefing is attached in full in Annex A and an overview of DHC is set out in Section 3 including the local context.

A further review of DHC has been completed by officers in the context of proposed legal changes by the Government regarding the allocation of social housing. This follows a current consultation by the Department of Levelling Up, Housing and Communities. The proposed response to the consultation is due to be considered by the Homes Policy Development Group on the 19 March. A summary of this is provided in Section 3 of the report.

Recommendations:

- 1. That Members note the review of DHC provided in the context of the current statutory and regulatory framework and proposed legal reforms**
- 2. That Members note that DHC provides assurance and compliance against current legal requirements including for the provision of a transparent and accountable allocation scheme that meets the needs of specific priority groups and vulnerable residents**
- 3. That Members note the ongoing, cyclical DHC policy review process to ensure it remains fit-for-purpose and that any proposed changes to DHC Policy arising from this will be brought to Homes PDG and Cabinet for due consideration for adoption**
- 4. That Members recognise that DHC is an allocations process that in itself it cannot directly address the current overarching shortage of social housing locally**
- 5. That Members note the ongoing corporate risk for the housing crisis and mitigation measures together with the pending review of the current Mid Devon Housing Strategy 2021-25 as a mechanism to address the local response to the wider shortage of affordable housing**

Section 2 – Report

1 Introduction to DHC

- 1.1 The DHC scheme and Policy is the adopted published allocation scheme for social housing in Mid Devon. It has been introduced and updated over time to meet our legal requirements on the allocation of social housing as set out in section 2 below.
- 1.2 It is a Devon-wide scheme, adopted by all ten Local Authorities in Devon and in place since 2010. It therefore covers social housing directly provided by all three remaining stock-holding Councils in the County (Mid Devon, Exeter and East Devon) alongside 24 registered partner landlords (Housing Associations etc).
- 1.3 As such, DHC provides a common framework and policy for access to over 60,000 social housing properties in Devon including circa 3,000 units provided by Mid Devon through its own Housing Service (Mid Devon Housing).
- 1.4 It is a choice based lettings scheme that provides one application form, housing register and a single, coherent approach to assessing housing needs and awarding priority for those in need of affordable housing across Devon. More information on DHC is provided in section 3 below.

2 Rules on allocating social housing

Housing Act 1996 – core provisions

- 2.1 There is legislation and statutory guidance setting out mandatory rules on how Local Authorities must act as the strategic housing authority to allocate social housing. These are set out in s166 and s167 of the Housing Act 1996 and associated guidance published by Department of Levelling Up, Housing and Communities (or its predecessor departments).
- 2.2 As the local housing authority, the Council therefore must:
 - Have a published, transparent and accountable allocation scheme determining the allocation of accommodation and procedures to be followed
 - Not allocate housing unless in accordance with the published allocation scheme
 - Provide free assistance in making an application for housing for those in need
 - Provide summary information on its allocation scheme to applicants and any member of the public

- Not inform a member of public or other third-party that a person is an applicant or share details of their application without the applicant's consent
 - Give tenants the right to move and provide housing for local people
- 2.3 The allocation scheme must include a statement about how it will offer a choice of accommodation to applicants or the opportunity for them to express a preference about the accommodation offered. This can be fulfilled through a choice based letting approach.
- 2.4 Legally, Local Authorities must also give reasonable preference to the allocation of social housing to several specific groups:
- Homeless and those where we have a homeless duty
 - People occupying unsanitary and overcrowded properties or with medical or welfare needs
 - People experiencing threats of violence and domestic abuse
 - Former and current members of Armed Forces

Corporate Parenting and Homelessness Reduction Act 2017

- 2.5 Local Authorities have additional responsibilities and housing priorities with regard to young homelessness including provisions set out within Corporate Parenting legislation with regard to care leavers. These are set out under the Children Act 2004 and Children and Social Work Act 2017.
- 2.6 Under the Homelessness Reduction Act 2017, young people leaving care are legally considered as having a local connection to the area of the upper-tier local authority that looked after them. As such, care leavers who have been looked after by Devon County Council will be considered to have a local connection to each of the Devon district local authorities. DHC policy expands on this provision to provide equivalent arrangements across Plymouth and Torbay within the County.

New Statutory Consumer Standards for Social Landlords – Tenancy Standard

- 2.7 Since the Member briefing on DHC in February 2024, the national Regulator of Social Housing (RSH) has updated its mandatory consumer standards which apply to all large landlords (Registered Providers) with more than 1,000 homes including Mid Devon. This new set of four overarching consumer standards includes a revised Tenancy Standard.
- 2.8 With effect from the 1st April 2024, the Tenancy Standard sets updated requirements for the fair allocation and letting of homes, as well as requirements for how tenancies are managed by landlords.

2.9 Under the Tenancy Standard there are a wide range of specific expectations, including those directly applicable to the allocation of social housing such as the following:

- Registered Providers must allocate and let their homes in a fair and transparent way that takes the needs of tenants and prospective tenants into account
- Registered Providers must co-operate with Local Authorities' strategic housing functions and assist Local Authorities to fulfil their duties to meet identified local housing need. This includes assistance with Local Authorities' homelessness duties, and through meeting obligations in nominations agreements
- Registered providers must have a fair, reasonable, simple and accessible appeals process for allocation decisions

2.10 Also, from 1 April 2024, the RSH will inspect large landlords at least once every four years to ensure they are meeting the consumer standards, consequently this will apply to MDH. As the regulator, the RSH has new powers to impose Performance Improvement Plans, levy potential unlimited fines and remove officers or hold inquiries where there is non-compliance with these standards.

Nomination agreements

2.11 In order to underpin our statutory requirements to house certain people and prioritise specific groups, as a Local Authority we enter into binding nomination agreements with private registered providers of social housing.

2.12 Private registered providers have a duty under the Housing Act 1996 to co-operate with housing authorities – where the authority requests it – to such extent as is reasonable in the circumstances in offering accommodation to people with priority under the authority's allocation scheme. Similarly, the same Act provides that, where a private registered provider has been requested by a housing authority to assist them in the discharge of their statutory homelessness functions, it must cooperate to the same extent.

2.13 Nomination agreements set out the proportion of lettings that will be made available; criteria which the private registered provider has adopted for accepting or rejecting nominees; and how any disputes will be resolved. They also put in place arrangements to monitor effective delivery of the nomination agreement so councils can demonstrate they are meeting their obligations.

Alignment of DHC with legal requirements and equality duty

- 2.14 DHC has been developed and implemented to meet the legal requirements set out above to ensure all partner Local Authorities as housing authorities and/or as registered providers of social housing in their own right meet their obligations including Mid Devon.
- 2.15 Under the statutory and regulatory framework, there is consequently only relatively limited scope for local flexibility. Where this can be exercised for example is typically within its nominations agreements and the criteria for determining priorities. These must nonetheless remain within the legal boundaries for specific priority groups as set out above and a requirement to avoid negative or unreasonable discrimination under the public sector equality duty. Housing authorities can also choose whether or not to reflect time waiting for an allocation in setting priorities.
- 2.16 As a result, DHC is by necessity a comprehensive, balanced approach and a significant investment by all partners in order to provide each organisation with a consistent, compliant and transparent process to allocate critical social housing resources locally.

3 Overview of DHC

- 3.1 DHC is in essence the Devon response to the statutory and regulatory framework set out above. Full information on the scheme can be found on the DHC website including sections on common myths and FAQs for Council Members at <https://www.devonhomechoice.com/>.
- 3.2 As a choice based lettings approach it ensures the required choice and right to move requirements are met. The full current DHC policy can be accessed at https://www.devonhomechoice.com/sites/default/files/DHC/Devon_Home_Choice_Policy_v11.1_April_2023.pdf
- 3.3 Local Authorities can adopt different systems of prioritising between applicants, these are principally points-based or banding approaches. DHC is a banding scheme which is seen as typically easier to understand for the applicant and easier to administer.
- 3.4 In addition to needs prioritisation, the DHC bandings set out below also reflect time waiting for an allocation.
- 3.5 Under the single portal, one application, one register approach and common banding approach there are currently over 27,000 applicants on the housing register across Devon as at 29 Jan 2024, of which around 1,700 are on the Mid

Devon Register. All participating housing associations are subject to nominations agreements for the local authority area they operate within.

- 3.6 DHC covers general needs housing alongside sheltered homes, homes being let at a new 'affordable rent' or that have a fixed term tenancy and disabled adapted properties which the landlord considers common adaptations (e.g. stair lift, rails, level-access bathroom). The only exceptions may be homes which have the benefit of relatively substantial and/or specialist adaptations, which may be directly offered to a household with very specific matching needs.
- 3.7 In accordance with legislation, DHC does not apply to some specific tenancies including non-secure temporary accommodation (to meet an interim duty under Housing Act 1996 / homelessness provisions), specialist supported accommodation, mutual exchanges (though local policies and provisions will do apply in Mid Devon and other areas), temporary decants, court orders and several other specific tenancies and legal situations.
- 3.8 Local Authority housing options teams are responsible for processing and determining application which includes; verification, assessing and awarding priorities including health and wellbeing or housing defect considerations, discharging homelessness and other specific priority group requirements and the overall application outcome. They also assist applicants, help set up automatic bidding, 'label' properties to be advertised, put in place support for vulnerable applicants, monitor their local DHC register and other duties. They are supported by Environmental Health colleagues in some situations with regard to the assessment of housing defects.
- 3.9 Multi-agency panels are responsible for assessment of some exceptional, emergency housing need requirements due to health and wellbeing and also consider whether applicants are ready to move-on from supported accommodation.

DHC Policy - banding and meeting health and wellbeing requirements

- 3.10 Under the DHC Policy there are five bandings which are summarised below:

➤ **Emergency Housing Need Band (Band A)**

Where current accommodation is so completely unsuitable that should applicant return to it the effect on their health would be critical and can only be averted by a move to alternative accommodation in the shortest time possible

➤ High Housing Need Band (**Band B**)

Where housing situation severely affects the applicant that results in them being completely housebound, at risk of injury, relapse or unable to live independently. Alternative housing required to prevent serious risks to their health

➤ Medium Housing Need Band (**Band C**)

Where housing situation seriously affects the applicant and is having an unacceptable impact to live independently. Alternative housing required to prevent a significant and serious deterioration

➤ Low Housing Need Band (**Band D**)

Where housing situation has same negative impact on applicant but is not causing any significant deterioration to health or ability to live independently

➤ No Housing Need Band (**Band E**) note: Exeter, Teignbridge and Torbay do not register Band E

In essence there is no current housing need at the time assessment. A health and wellbeing issue may be recognised but is not affected by current accommodation as would not be improved by move to alternative accommodation

DHC Policy – local connection and cross-border moves

3.11 Under DHC Policy, local connection is defined as the following, irrespective of where the applicant is current housed and bidding from:

- Resided in the area for six of the last twelve months, or three out of the last five years, where residence has been out of choice
- Work - permanent work with a minimum of a 16 hour contract per week for the previous 6 months, and without a break in the period of employment for more than three months
- Family connection - has parents, adult children or brothers or sisters who have been resident in Devon for at least the last 5 years.

- Have special circumstances for moving to Devon - for example this may be because they have a specific medical condition and the only/ most appropriate treatment available is based in Devon

3.12 In order to meet choice and reasonable right-to-move requirements, DHC provides people seeking housing with choice and the ability to move within Devon. However, moves across LA borders in Devon, where there is no local connection, are monitored on a monthly basis and where 2% of lets have been met or exceeded on this basis, then Local Authorities may then add a specific preference to those with a local connection to that local authority area. This provides for essential check and balances against disproportionate moves between areas whereby one area become overwhelmed by broader demand.

3.13 There are exemptions for local connection for care leavers, domestic abuse victims and UK armed forces personnel as required by law.

DHC Policy – bedroom need

3.14 The DHC policy restricts bids for homes that only match current assessed bedroom need. This is a legal requirement to avoid under or over occupation. However, under social housing legislation, secure tenancies mean there is lifetime guarantee of tenure for the majority of tenants which means older couples or individuals do often have a right to stay in a property where adult children have subsequently left the home for example, creating a legal under occupation.

3.15 MDH also have a policy of not allowing mutual exchanges were there will under or over occupation.

3.16 The specific DHC bedroom need requirements are:

- Separate bedroom allocation to each:
 - Married or cohabiting couple
 - Person aged 16 years or more
 - Pair of adolescents aged 10 – 15 years of the same sex
 - Pair of children aged under 10 years regardless of sex
- Any unpaired person aged 10 to 15 years is paired, if possible, with a child under 10 years of the same sex or, if that is not possible, given a separate bedroom. The same applies to any unpaired child aged less than 10 years
- Some very limited exceptions – for example where additional space is required for medical equipment

DHC Policy – bidding and refusals

- 3.17 The bidding cycle starts on Wednesdays and ends on Monday. Bids can be placed on the website or an app on an account login basis. Autobids can be set up by the applicant or on behalf of the applicant by the Local Authority for vulnerable applicants.
- 3.18 There is a maximum of 3 bids per week.
- 3.19 Refusals of 3 or more homes is considered unreasonable and may result in a priority being removed from the register as no housing need. This is determined through an interview process with the applicant by the Local Authority and includes failure to respond or turn up for viewing or declined initial suggested match when contacted by landlord or a declined formal offer.
- 3.20 Having a refusal mechanism in place is important where there is a critical shortage of housing stock. As such all housing organisations within DHC can reduce refusal rates to minimise the length of time that properties are empty and increase transparency around their stock.

DHC - local context

- 3.21 Choice-based lettings approach are the most common lettings approach nationally. Most schemes operate on a logical County or sub-regional economic and housing need geography, providing a balance of scale and local choice. Within the south-west, comparable schemes and local allocations policies operate in Somerset (Homefinders), Cornwall (Homechoice Housing Register), Bristol (Homechoice Bristol), Dorset (Dorset Council Homechoice) and Wiltshire (Homes4Wiltshire).
- 3.22 There are over 1,700 current applicants on the Mid Devon register within the wider DHC. In 2023/24 to the end of January, 933 of these local applicants were in Bands A-D therefore had some level of housing need of which 205 lets have been made.
- 3.23 This equates to 4.6 applicants per property let. For the most recent complete financial year (2022/23), 86% of lets in Mid Devon were to people moving within the Mid Devon area.

The housing geographical variance of housing supply pressures and local let percentages across Devon are set out in the table below:

Local Authority	Applicants in Bands A-D per property let (2023/24 to end January)
South Hams	3.3
Exeter	3.3
West Devon	3.8
Teignbridge	4.0
Mid Devon	4.6
North Devon	5.0
Plymouth	6.0
East Devon	6.4
Torbay	6.9
Torrige	7.6
Average	5.2

Local Authority	% lets of people in Local Authority area moving to LA in same area
Plymouth	90%
Mid Devon	86%
North Devon	86%
Torbay	83%
Torrige	81%
East Devon	80%
Exeter	80%
South Hams	80%
Teignbridge	74%
West Devon	74%
Average	81%

- 3.24 In the year to end of January 2024, only two properties in Mid Devon have been let to applicants from outside Devon with no local connection the year to date. These were not MDH properties and may only have been let where there were no bids by those with a local connection.
- 3.25 Consequently, Mid Devon is performing slightly above average for Devon in terms of property availability, however all Local Authorities have a significant shortage of social housing where no amount of prioritisation will enable demand to be met quickly based on current supply.
- 3.26 Furthermore, Mid Devon is performing above average for Devon for the number of properties let to those moving from within its area, although all areas achieve a significantly high majority. This highlights the effectiveness of the local preference policy provisions and those checks and balances to ensure no one LA is disproportionately impacted by moves within the County.
- 3.27 Further local context with regard to a breakdown of bandings by applicant numbers/bedroom needs, health and well-being priorities and other information such as average waiting times is provided in Annex A.

4 Proposed social housing allocation reforms

- 4.1 On the 1st February 2024, Government wrote to all Council leaders setting out a consultation seeking views on a series of reforms to how social housing is allocated.

- 4.2 These reforms have the potential to impact on all Local Authority social housing allocation schemes in England and provide a key narrative on the future legislative landscape including new compliance requirements. As such, the proposed reforms have been reviewed against current local social housing allocation policy i.e. DHC and with regard to any wider potential social housing implications.
- 4.3 These proposals and the proposed Mid Devon response to the consultation is set out in a full within a report to the Homes Policy Development Group on 19 March 2024 and the consultation can be accessed at <https://www.gov.uk/government/consultations/consultation-on-reforms-to-social-housing-allocations>. Nonetheless, given the relevance of these reforms to any review of DHC they are summarised below.
- 4.4 The reforms which the government are seeking views on are summarised below through a series of new or updated tests:

UK connection test – requiring people to be a British citizen, Irish citizen, Commonwealth citizen with a right of abode, or EEA or Swiss citizen with equal treatment rights in matters of housing, or otherwise to have been lawfully resident in the UK for ten years, in order to be eligible for social housing.

Exemptions are being consulted upon for those arriving into the UK via safe and legal resettlement routes and the Ukrainian temporary visa schemes. The stated aim of this proposal is to allow for the allocation of more social homes to those with the strongest connection to the UK, while enabling the Government to continue to deliver its commitments to provide urgent humanitarian support.

Current DHC Policy alignment:

The DHC policy is fit for purpose but the proposal will provide further clarity to what is already in place.

Local connection test – preventing individuals from being allocated social housing if they have not had links to the local authority area for two years. The stated aim of this proposal is to ensure greater consistency across the country and ensure more local people can access social housing in the area they call home.

Current DHC Policy alignment:

The DHC policy allows for a local preference and is weighting towards this but does allow a person with no local connection to the LA to obtain housing subject to specific criteria. There are current exemptions in place legally for those fleeing domestic abuse and where care leavers are considered to have a local connection to each local authority in Devon irrespective of where they were

placed in care if there were a responsibility of Devon County Council. Clarification is needed as to how the updated local connection test proposed will work alongside these existing legal provisions.

Income test – households earning above a maximum threshold (to be defined following responses to the consultation) would not qualify for social housing. It will not be applied to existing tenants and there will be no change to rights, tenures, length of tenancies or rents of existing tenants.

This is already in place within DHC policy as follows:

- Households with a gross household income more than six times higher than the relevant Local Housing Allowance level prevailing in Devon are placed in E band (no housing need/lowest priority)
- Current capital savings and equity thresholds also apply:
 - General needs housing: £16,000
 - Sheltered/Older persons housing: 1-bed self-contained £120,000 and 2-bed £130,000

Anti-social behaviour (ASB) test – disqualifying people who have unspent convictions for certain criminal anti-social behaviour offences, as well as certain civil orders, from social housing for a defined period.

Current DHC Policy alignment:

Amendments will be required to DHC policy to encompass any legal changes specific to ASB. There is much that needs clarification which the consultation does not cover. In particular, there are several issues or concerns around how plans ‘three strikes and you’re out rules’ might work in reality, unintended potential consequences regards ASB Closure Orders and what the legislation will look like

Terrorism test – terrorist offenders with unspent convictions will not qualify for social housing unless excluding them would increase the risk to public safety.

Current DHC Policy alignment:

This is a new requirement not covered by current DHC policy. The policy would therefore require updating to reflect any legal changes. There are practical considerations and potential costs associated with unspent conviction checks which require clarification and would introduce additional steps/potential delays in the housing application and/or allocation process.

False statement test – mandating a period of disqualification for those who knowingly or recklessly make false statements when applying for social housing.

Current DHC Policy alignment:

Current DHC policy is already consistent with the introduction of a false statement test. The policy states that any applicant making false or misleading statement will have their application refused or withdrawn from the DHC register and/or have any offers made withdrawn. There are also provisions in place for fraud investigations and these may also lead to court action. The proposal for a mandated period of time of disqualification is new and would therefore need to be incorporated into an update of the DHC policy to reflect any legal changes.

- 4.5 The new reforms will only apply to applicants and have no impact on existing tenants. Overall, DHC provides relatively close alignment with the proposal legal reforms and would require limited change to be fit-for-purpose should the changes be implemented as set out in the consultation.

5 DHC Policy review and provision

- 5.1 There is an in-depth, legally supported annual policy review process. This is carried out by the DHC board which includes representation from all registered provider partners and Devon Local Authorities as the housing authorities.
- 5.2 Minor legal changes are made without further review. Any other policy changes including any discretionary changes to how applications are considered and priority bandings/bedroom needs awarded require member approval.
- 5.3 The current annual review process is live for 2024/25 and the policy will come to Homes PDG for consideration for subsequent Cabinet approval as recommended.
- 5.4 Consequently, there is rolling scope for member input and sign-off locally regarding any policy changes as a key part of the local democratic process. MDH also directly consults its current tenants on any significant policy changes as part of its wider obligations towards tenant engagement and effective tenant scrutiny.
- 5.5 Following the current annual policy review, the technical contract to provide and support the online DHC platform/ICT solution is also due for renewal. This will present further opportunities to enhance the existing (high-specification) cloud-based system to further improve the customer experience. This is a key component of the overall DHC approach and represents a significant investment to date by each partner organisation.
- 5.6 The Council has no funds in place to make a budget provision to develop its own compliant, but highly localised lettings system outside of DHC – for example one which was Mid Devon specific and encompassed MDH properties only. To do so would cost an estimated six-figure £ sum. In

comparison to an evolving multi-partner DHC, such a project would be subject to challenging value for money assessment alongside legal compliance considerations regarding those right-to-move, fair access to housing and equality duty requirements set out above.

6 Review conclusions

- 6.1 The DHC choice based letting systems provides compliance with the current statutory and regulatory framework. As such it provides an essential, fair and transparent process to allocate social housing whilst providing for appropriate legal preference to specified groups including vulnerable persons and those in most need.
- 6.2 The current DHC policy will require relatively light-touch changes to be compliant with proposed social housing allocation reforms should these be carried forward.
- 6.3 The current DHC policy is also effective in providing for right-to-move across the County and ensuring properties are let to those with local connections. As such is maximises choice and opportunities for our residents, especially where their circumstances change.
- 6.4 Beyond compliance, DHC delivers against its core aims to promote greater customer choice, improve information on property demand and information provision for customers and regulators alike whilst minimising the overall time and cost to deliver a wide ranging allocations process.
- 6.5 It would be cost-prohibitive to develop a standalone local lettings system in Mid Devon outside of DHC and also highly challenging to meet legal requirements in isolation.
- 6.6 Local frustrations around access to social housing are fully recognised. Nonetheless, DHC in itself cannot supply social housing – it only provides the mechanism to access such housing locally in as fair and compliant a way as is possible.
- 6.7 Significantly increasing the supply of new affordable homes will change the core pressures as part of a broader approach to addressing the housing crisis at national and local level. This requires levers, funding and systems to work coherently outside of the DHC allocation process. The complexity of this crisis is demonstrated by its wider drivers; a declining private rental accommodation sector, loss of permanent homes to other uses, external refugee and humanitarian scheme pressures, increasing market rents, high mortgage costs and a cost-of-living crisis.

6.8 These wider considerations are being addressed through the present corporate risk register and risk CR12: Housing Crisis specifically. Strategic objectives to tackle the overarching shortage of housing are set out in the current Mid Devon Housing Strategy 2021-25, for which a review is due to commence during 2024 for consideration by Homes PDG and Cabinet later this year.

7 Recommendations

7.1 In accordance with the above, the following recommendations are made:

1. That Members note the review of DHC provided in the context of the current statutory and regulatory framework and proposed legal reform
2. That Members note that DHC provides assurance and compliance against current legal requirements including for the provision of a transparent and accountable allocation scheme that meets the needs of specific priority groups and vulnerable residents
3. That Members note the ongoing, cyclical DHC policy review process to ensure it remains fit-for-purpose and that any proposed changes to DHC Policy arising from this will be brought to Homes PDG and Cabinet for due consideration for adoption
4. That Members recognise that DHC is an allocations process that in itself it cannot directly address the current overarching shortage of social housing locally
5. That Members note the ongoing corporate risk for the housing crisis and mitigation measures together with the pending review of the current Mid Devon Housing Strategy 2021-25 as a mechanism to address the local response to the wider shortage of affordable housing

Financial Implications

There are no direct financial implications arising from this report.

There are potentially significant financial implications should the Council choose at any stage to exit DHC whereby it would need to Council develop a standalone letting allocation scheme are set out above. There are no budget provisions or financial safeguards in place to do so presently.

Legal Implications

The wide-ranging current and proposed statutory and regulatory framework for local authority social housing lettings schemes is set out within the body of the report.

Risk Assessment

The Council is legally bound to provide a fair, transparent and published lettings scheme that meets the overarching legal framework including the need to prioritise, the right to choice/to move and to give preference to certain specific groups. Failure to meet these requirements comes with a myriad of risks which are however effectively mitigated by the current DHC scheme.

DHC presently meets the required legal provisions and has strong alignment with proposal legal reforms. As such it can be considered fit-for-purpose. Failure to provide an adequate lettings scheme would result in crucial social housing would not being let fairly or efficiently and subject to legal challenge and/or significant delays in the letting timeline. This would in term limit choice and an undue wider impact on those with a housing need, including some of the most vulnerable groups in our communities.

There are identified mechanisms in place to review and formally adopt the Policy that underpins DHC on a regular basis with input from Members and officers to ensure it remains fit-for-purpose.

There is no budget provision for the Council to develop its own compliant, but highly localised lettings system – for example one which was Mid Devon specific and encompassed MDH properties only. Such a project would be subject to challenging value for money tests and legal compliance provisions regarding the duty requirements set out above.

There are additional corporate risk and adopted Strategy mechanisms in place that are striving to address the wider housing crisis including the underlying pressures created by a shortage of affordable housing.

Impact on Climate Change

None directly arising from the report.

Equalities Impact Assessment

Not applicable, equality implications are detailed in the report.

Relationship to Corporate Plan

Homes and the provision of affordable housing is a core priority of present corporate plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 05 Mar 2024

Statutory Officer:

Agreed on behalf of the Monitoring Officer

Date:

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

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 01 March 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 04 March 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

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

Background information

Devon Home Choice

Member Briefing 15 February 2024

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Welcome – Cllr Simon Clist Deputy Leader and Cabinet Member for Housing and Property

Simon Newcombe – MDDC Housing Lead and Corporate Manager

Gary Pitman – DHC Project Lead (Exeter City Council)

Sarah Thomas – MDDC Housing Options Team



Aims

The aims of the presentation are to provide members with a better understanding of DHC, including:

- The wider / legal context
- DHC Policy and how it works in practice
- Benefits of DHC and choice based letting
- Local context for Mid Devon
- Review and updating DHC policy
- Where to get more information

Legal and wider context



Rules on allocating social housing

- **Legislation and rules around allocating social housing**
- **Housing Act 1996** is key legislation
- Every housing authority (LA) must have an **allocation scheme to determine housing priorities** and this is managed by our Housing Options team
- An LA's allocation scheme must include a statement about how it will offer a **choice of accommodation to applicants** or the opportunity for them to **express a preference** about the accommodation offered – choice based letting
- Requirement for a **transparent, consistent approach**
- Legally, must give reasonable preference to **specific groups**:
 - **Homeless** and those where we have a **homelessness duty**
 - People occupying **unsanitary** and **overcrowded properties** or with **medical** or **welfare** needs
 - Threats of **violence** and **domestic abuse**
 - Former and current members of **Armed Forces**
- Additional responsibilities and housing priorities towards **young homelessness** including Corporate Parenting legislation and **Care Leavers**

Choice Based Lettings



Choice Based Lettings Scheme

- One way LA's can offer the required choice is through **Choice Based Lettings Scheme**
- LA's can adopt different systems of prioritising between applicants, these are principally **points-based** or **banding** approaches
- A **banding scheme is seen as typically easier to understand** for the applicant and easier to administer by the LA
- In addition to needs prioritisation and any points score or banding can still reflect **time waiting** for an allocation
- Need to avoid unnecessary **discrimination**
- Guidance on **right to move** and providing housing for **local people** still applies

DHC Overview and Policy



Overview of Devon Home Choice (DHC)

- DHC – Devon response to having a Choice Based Lettings Scheme
- Live since 01.01.2010
- Partnership made up of 10 Local Authorities in Devon and 24 Registered Partner Landlords operating under a common DHC Policy
- One Application Form, Housing Register and approach to assessing Housing Needs and awarding priority
- 27,413 Applicants on the Housing Register across Devon as at 29 Jan 2024, of which 1,752 are on the Mid Devon Register

Policy - Banding

5 Bands

- Emergency Housing Need Band (**Band A**)
- High Housing Need Band (**Band B**)
- Medium Housing Need Band (**Band C**)
- Low Housing Need Band (**Band D**)
- No Housing Need Band (**Band E**) * Exeter, Teignbridge and Torbay do not register Band E

Policy - Bedroom Need

- Ability to bid only for homes that match assessed bedroom needs with some exceptions
- Separate bedroom allocation to each:
 - Married or cohabiting couple
 - Person aged 16 years or more
 - Pair of adolescents aged 10 – 15 years of the same sex
 - Pair of children aged under 10 years regardless of sex

Any unpaired person aged 10 to 15 years is paired, if possible, with a child under 10 years of the same sex or, if that is not possible, given a separate bedroom. The same applies to any unpaired child aged less than 10 years.

Policy - Cross Border Moves

- A key aim of DHC is to provide people seeking housing with choice and the ability to move within Devon e.g. to access work or move closer to support networks.
- Moves across LA borders in Devon, where there is no local connection, is monitored on a monthly basis and where the 2% of lets limit has been met or exceeded based on the calculation for the previous 12 months, Local Authorities may then add a preference to those with a local connection to that local authority area.
- Exceptions to the calculation of the figures include current tenants of DHC partner landlords, victims of domestic abuse and people who have left the UK armed forces in the last 5 years.

	No. moved into local authority area, from within Devon, with no local connection	No. moved out of local authority with no local connection to LA moved to	Balance	Jan 23 to Dec 23 Lets	Jan 23 to Dec 23 Limit	Moved in from outside Devon with no <u>local connection</u> to LA moved to
East Devon	39	6	36	449	9	3
Exeter	23	36	-9	561	11	4
Mid Devon	14	11	5	197	4	2
North Devon	19	10	9	241	5	0
Plymouth	13	33	-18	842	17	2
South Hams	25	12	16	261	5	3
Teignbridge	30	15	17	343	7	2
Torbay	8	46	-36	225	5	2
Torrige	6	13	-5	149	3	2
West Devon	9	4	5	145	3	0

2022/23 Lets - % of people in LA area moving to a property in same LA

Property LA	Applicant LA									
	East Devon	Exeter	Mid Devon	North Devon	Plymouth	South Hams	Teignbridge	Torbay	Torrige	West Devon
East Devon	80%	15%	2%	0%	1%	1%	0%	1%	0%	1%
Exeter	6%	80%	4%	2%	1%	1%	2%	4%	0%	1%
Mid Devon	2%	5%	86%	3%	1%	0%	1%	1%	1%	0%
North Devon	1%	2%	1%	86%	2%	0%	0%	1%	5%	0%
Plymouth	0%	1%	0%	0%	94%	2%	0%	1%	1%	0%
South Hams	1%	0%	0%	0%	13%	80%	2%	2%	0%	1%
Teignbridge	4%	5%	1%	0%	3%	3%	74%	11%	0%	1%
Torbay	1%	2%	1%	2%	3%	5%	3%	83%	0%	0%
Torrige	1%	1%	1%	11%	3%	0%	0%	1%	81%	1%
West Devon	1%	2%	3%	2%	11%	2%	1%	2%	2%	74%

Policy - Health & Wellbeing

- **Urgent/Emergency Priority (Band A)** – Current accommodation so completely unsuitable that should applicant return to it the affect on their health would be critical and can only be averted by a move to alternative accommodation in the shortest time possible
- **High Priority (Band B)** – Housing situation severely affects the applicant that results in them being completely housebound, at risk of injury, relapse or unable to live independently. Alternative housing required to prevent serious risks to their health
- **Medium Priority (Band C)** – Housing situation seriously affects the applicant and is having an unacceptable impact to live independently. Alternative housing required to prevent a significant and serious deterioration
- **Low Priority (Band D)** – negative impact on applicant but not causing any significant deterioration to health or ability to live independently
- **No Priority (Band E)** – a health and wellbeing issue recognised but not affected by current accommodation as would not be improved by move to alternative accommodation

Policy - Bidding

- Bidding Cycle starts on Wednesdays and ends on Mondays
- Bids can be placed on the website by logging into their account, by app, by contacting LAs to place bid on their behalf or by autobids (setting to be put on by LA for vulnerable applicants)
- Maximum of 3 bids per week
- Refusals (includes failure to respond, turn up for viewing or declined initial suggested match when contacted by landlord or declined a formal offer) of 3 or more homes considered reasonable by the LA managing their case may result in their priority being removed from the Exeter Register as no housing need

Q&A

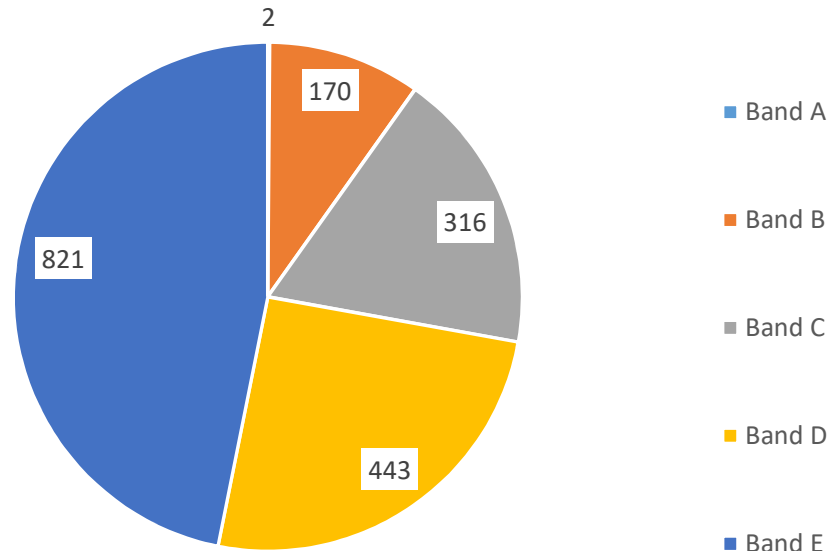


Local Context for Mid Devon



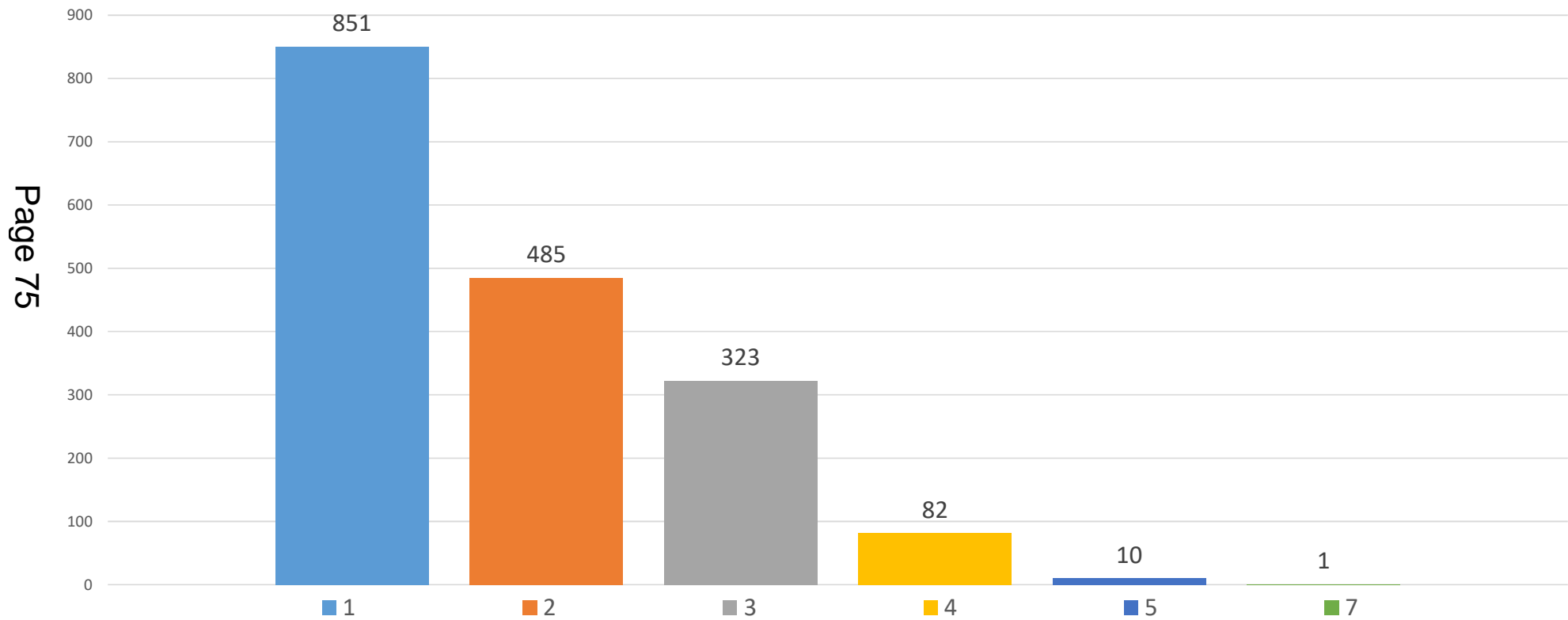
Mid Devon Housing Register as at 29 January 2024

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Total No on Register: 1,752

Mid Devon register by bedroom need



Letting numbers over last 5 years

Year	Devon	Mid Devon
2022/23	3188	233
2021/22	3297	213
2020/21	3260	207
2019/20	4204	281
2018/19	4598	310

Lets in Mid Devon area in 2023

Mid Devon	1 Bed	2 Bed	3 Bed	4 Bed	Total
Band A	5				5
Band B	60	54	23	1	138
Band C	11	14	3		28
Band D	8	2	1		11
Band E	4	6	3		13
Total	88	76	30	1	195

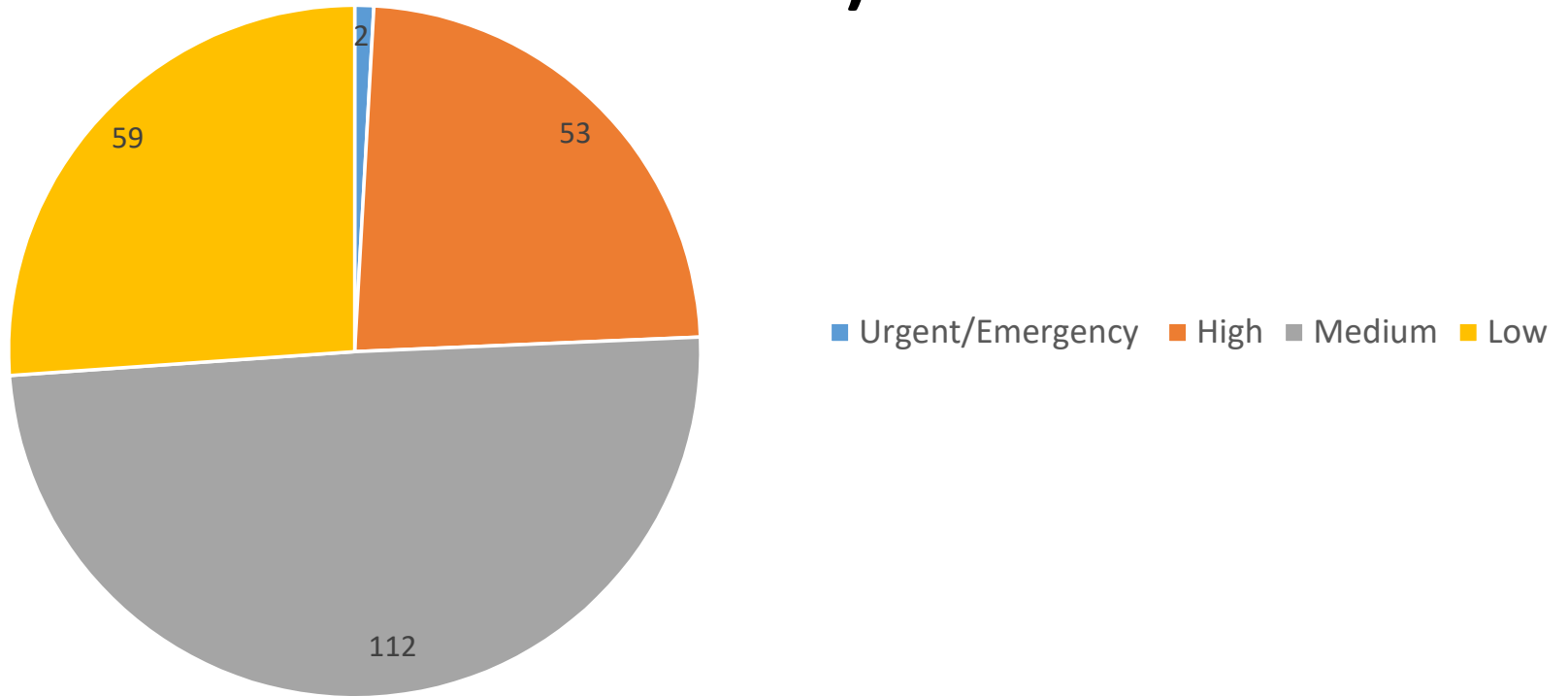
Local Authority	No on register in Bands A - D	No of Lets in LA area in 2023	No of applicants per property let
East Devon	2886	451	6.4
Exeter	2192	576	3.8
Mid Devon	933	205	4.6
North Devon	1459	266	5.5
Plymouth	5361	896	6.0
South Hams	874	267	3.3
Teignbridge	1494	376	4.0
Torbay	1690	244	6.9
Torridge	1219	160	7.6
West Devon	515	157	3.3
Grand Total	18623	3598	5.2

Housing Supply Pressures – geographical variances

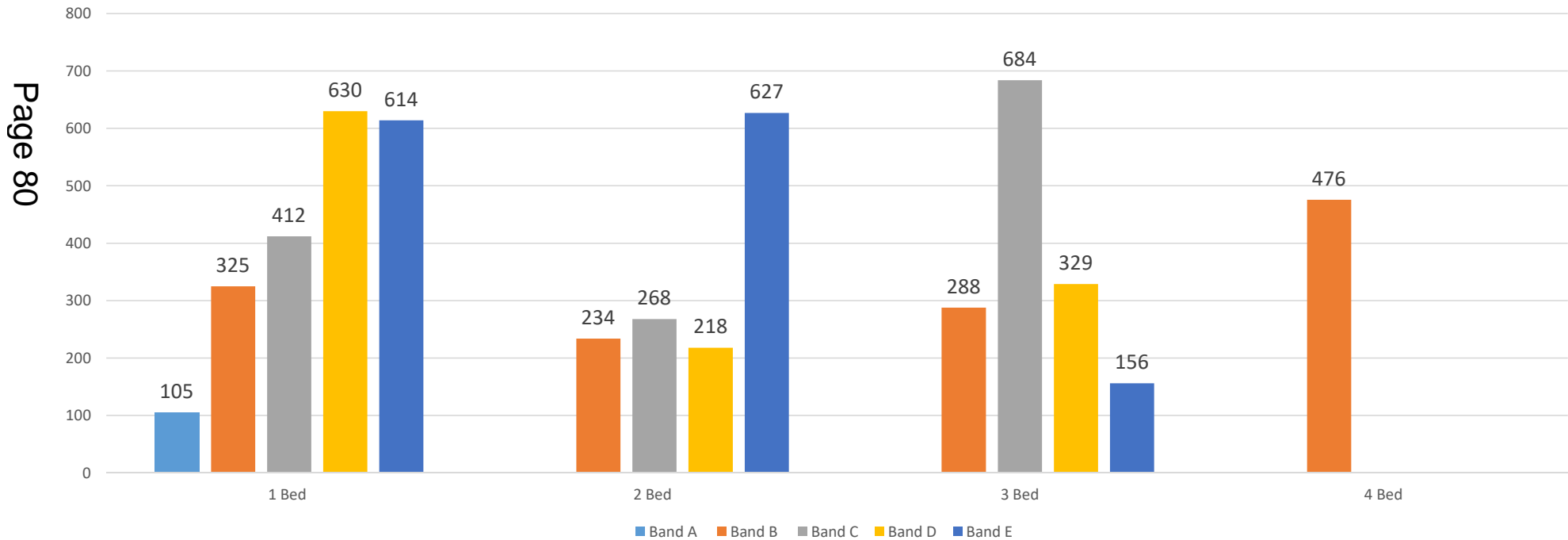


Mid Devon H&W Priority (226 Applicants as at 30.01.2024)

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Average waiting time (in days) from band start date to tenancy start date for homes let in Mid Devon in 2023



Policy Review



Policy Review

- **Annual policy review** process – live for 2024/25
 - Application of bandings
 - Priorities and vulnerable groups
 - Technical standards – overcrowding / definitions of bedroom need etc
- **DHC Board – all Registered Provider partners**
- **Member input** in policy changes
- Homes PDG review / recommendation
- Cabinet decision
- Guidance on **right to move** and providing housing for **local people** still applies

More information



Website www.devonhomechoice.com

- **Useful Information Page**
 - Monitoring Reports
 - **Common Myths and FAQs**
 - **Guide to Devon Home Choice and FAQs for Council Members**
 - Advice for professionals, family or friends supporting someone with their application
 - **Guidance for applicants** including 'Are you Rent Ready' and 'How It Works' with video guides
- Results (what are my chances is available to applicants when they log in to their accounts)

Q&A



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Report for: Scrutiny

Date of Meeting:	18 March 2024
Subject:	Rivers and Seas, Motion 583
Cabinet Member:	Councillor Steve Keable, Cabinet Member for Planning and Economic Regeneration
Responsible Officer:	Richard Marsh, Director of Place and Economy
Exempt:	Not Applicable
Wards Affected:	All
Enclosures:	N/A

Section 1 – Summary and Recommendation

This report seeks to:

1. Provide members with an update on progress in relation to the work of the Council relating to Motion 583 and water quality/management.

Recommendations:

1. That Members note the update report, and;
2. That a further update report be provided on the ongoing work-streams as soon as possible, but no later than September 2024.

Section 2 – Report

1. Background

- 1.1. On 13th October 2022 Full Council passed Motion 583 regarding the Protection of Rivers and Seas. In this, the Council:

1. recognised this Council's obligation to protect its rivers and seas, including from the cumulative impacts of pollution, in line with its local strategy and the National Planning Policy Framework and working with other agencies to do so. And;
 2. further recognised that deterioration of water quality occurs due to cumulative impact of multiple sewage discharge events, or "sewage overload".
- 1.2. In January 2023, the Scrutiny Committee invited senior representatives of South West Water to address them at the meeting of 16th January 2023 and the committee put a range of questions to the representatives which were addressed within the meeting.
 - 1.3. In October 2023, officers responded to specific questions raised by members regarding the role of the Authority in relation to key matters/aspects relating to water quality and the protection of Rivers and Seas. Officers also detailed that the Authority is currently in the process of commissioning a Water Cycle study in support of the new Local Plan, which it is hoped will provide the Authority with a clearer pictures of issues pertaining to water related issues within the district. At this meeting, a request was made to seek to re-engage with South West Water and the Environment Agency by inviting their attendance at a future meeting – ideally this meeting, in March 2024.
 - 1.4. Since that time; officers have been undertaking a range of tasks, including;
 - 1.4.1. Liaising with both South West Water and the Environment Agency regarding attendance at a Scrutiny meetings;
 - 1.4.2. Progressing the commissioning of skilled consultants to undertake the Water Cycle study on behalf of the Council and in support of our new Local Plan;
 - 1.4.3. Researching how other Local Planning Authorities seek additional information from Water companies through the Planning Process and the success they enjoy in doing so, and;
 - 1.4.4. Incorporating an additional request for information in statutory consultee requests made to South West Water in support of major planning applications.
 - 1.5. In terms of the first tasks; the Environment Agency have accepted the invitation to come before the Scrutiny committee to discuss their work and are expected at this meeting (March 2024). South West Water have also confirmed their willingness to attend a meeting and, although acceptance was given to attend this meeting, it is now suggested that this is held in abeyance pending an understanding of how they (SWW) respond to planning consultations on major developments through the planning system (discussed in more detail in para 1.6, below) and, ideally, to allow time for preliminary outputs from our own Water Cycle study to be generated in order to support engagement with SWW on any issues and opportunities identified.

- 1.6. In terms of the fourth task (1.4.4, above), the Local Planning Authority is now seeking additional information from SWW in its consultation responses to major planning applications. Specifically, it is seeking to understand which water treatment works will be managing sewage arising from new development and whether they (the works) have capacity to do so (the exact wording is set out in para 1.7). Linking to the third task above (1.4.3), it should be noted that other Local Planning Authorities elsewhere within the country are also seeking similar information from their own Water Companies, with mixed success.
- 1.7. South West Water, through the planning consultation on major planning applications, will be asked to: “clarify which treatment works will be managing the sewage and whether they have capacity to do so; and whether it has the information available to assess the impact on the number or duration of sewage discharges in to local rivers or seas. If it does have this information, then ask for it to be shared.”
- 1.8. With the above in mind, it is recommended that a further report be brought before this committee as soon as possible and no later than September 2024 in order to update members in relation to the additional requests being made of SWW, but also (as far as is possible) to provide an update in terms of any key information arising from the Water Cycle Study. It is suggested that this will then be helpful in informing any future engagement by the Scrutiny Committee with South West Water.

Financial Implications

There are no direct financial implications as a result of this report: the water cycle study is already a piece of technical evidence to be commissioned in support of the new Local Plan.

Legal Implications

No direct legal implications arise from this report, but members and officers should be conscious of the legal obligations placed upon this council, the Environment Agency and statutory undertakers (including Water Companies) in providing services and discharging specific duties within a highly prescribed legislative framework.

Risk Assessment

No specific risks are considered to arise from this report.

Impact on Climate Change

Water quality and water management both have a direct relationship to the environment and to climate change. The effective management of water will help minimise climate change and minimise environmental impact. Conversely; poor management of water resources (both in terms of supply and quality management) will have a negative effect on the environment and climate change.

By considering how this council is considering water quality and management, this Council is clearly demonstrating its desire to abide by its own Biodiversity Duty as set

out by set out by the Environment Act 2021 and the amended Natural Environment and Rural Communities Act 2006 (NERC Act).

Equalities Impact Assessment

Not applicable

Relationship to Corporate Plan

The effective use, supply and management of water will support the Council in achieving its Corporate Plan.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 05 Mar 2024

Statutory Officer:

Agreed on behalf of the Monitoring Officer

Date:

Chief Officer: Richard Marsh, Director of Place and Economy

Agreed by or on behalf of the Chief Executive/Corporate Director

Date: 05 Mar 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 04/03/2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Richard Marsh, Director of Place and Economy. rmarsh@middevon.gov.uk

Background information

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SCRUTINY COMMITTEE WORK PLAN 2024-25

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
18 March 2024				
18.03.24	Motion 583 - Protecting Rivers and Seas Report back from Director of Place. Officers from the Environment Agency and South West Water to be invited.		Director of Place	
18.03.24	Devon Home Choice To receive a report from the Corporate Manager for Public Health, Regulation and Housing		Corporate Manager for Public Health, Regulation and Housing	
18.03.24	Cabinet Portfolio Presentation		Cabinet Member for the Working Environment	
18.03.24	Cabinet Portfolio Presentation		Cabinet Member for Planning and Economic Generation	
15 April 2024				
15.04.24	Scrutiny Chairman's Annual Report To receive a report from the Chairman of the Scrutiny Committee on the work the Scrutiny Committee has conducted over the last year.			
15.04.24	Cabinet Portfolio Presentation		Cabinet Member for Community and Leisure	

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
15.04.24	Cabinet Portfolio Presentation		Cabinet Member for Finance	
15.04.24	Motion 564 Inclusion and Diversity Report back from Working Group following the receipt of the Councillor Questionnaires with recommendations.			
17 June 2024				
17.06.24	Election of Vice Chair			
17.06.24	Start Time of Meetings			
17.06.24	Leader's Annual Report To receive the Leader's Annual report for the previous year		Corporate Performance and Improvement Manager and Corporate Manager for People, Governance and Waste	
17.06.24	Cabinet Portfolio Presentation		Cabinet Member for Housing and Property Services	
17.06.24	Cabinet Portfolio Presentation		Cabinet Member for Environment and Services	
15 July 2024				
15.07.24	Corporate Mid-Point Review		Chief Executive	
15.07.24	Annual Corporate Performance Report		Corporate Performance and Improvement Manager	
15.07.24	Community Safety Partnership		Corporate Manager for Public Health, Regulation and Housing	

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
15.07.24	Cabinet Portfolio Presentation		Cabinet Member for Climate Change	
15.07.24	Cabinet Portfolio Presentation			
12 August 2024				
12.08.24	Whistleblowing – 6 month update		Corporate Manager for People, Governance and Waste	
12.08.24	Establishment – 6 month update		Corporate Manager for People, Governance and Waste	
12.08.24	Cabinet Portfolio Presentation			
9 September 2024				
09.09.24	Cabinet Portfolio Presentation			
30 September 2024				
28 October 2024				
28.10.24	Annual Report of Complaints and Compliments		Corporate Manager for Digital Transformation and Customer Engagement	
25th November 2024				
25.11.24				

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments
16th December 2024				
16.12.24	Corporate Performance Quarter 2		Corporate Performance and Improvement Manager	
13th January 2025				
13.01.25	Review of Medium Term Financial Plan 2025-2030		Deputy Chief Executive S.151	
13.01.25	RIPA Annual Report		Director of Legal, Governance and HR (Monitoring Officer)	
17th February 2025				
17.02.25	Whistleblowing Annual Update To receive details of any Whistleblowing instances in the previous year.		Corporate Manager for People, Governance and Waste	
17.02.25	Establishment Report To Receive a report from the Corporate Manager for People Governance and Waste		Corporate Manager for People, Governance and Waste	
17th March 2025				
17.03.25				
14th April 2025				
14.04.25	Scrutiny Chairman's Annual Report To receive a report from the Chairman of the Scrutiny Committee on the work the Scrutiny Committee has conducted over the last year.			

Meeting Date	Agenda Item	Theme	Officer Responsible	Comments

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