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MID DEVON DISTRICT COUNCIL

A MEETING of the **MID DEVON DISTRICT COUNCIL** will be held in the Phoenix Chambers, Phoenix House, Tiverton on Wednesday, 1 November 2023 at 6.00 pm

ALL MEMBERS of the **COUNCIL** are summoned to attend for the purposes of transacting the business specified in the Agenda which is set out below:

[The next meeting is scheduled to be held in Tiverton on Wednesday, 29 November 2023 at 6.00 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.

[To join meeting online, click here](#)

Meeting ID: 342 194 679 349

Passcode: 72KzjT

STEPHEN WALFORD

Chief Executive

24 October 2023

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

AGENDA

1 **Apologies**

To receive any apologies for absence.

2 **Public Question Time**

To receive any questions from members of the public and replies thereto.

3 **Declarations of Interest under the Code of Conduct**

Councillors are reminded of the requirement to declare any interest, including the type of interest, and the reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.

4 **Minutes** (*Pages 7 - 28*)

Members to consider whether to approve the minutes as a correct record of the meeting held on 6 September 2023.

The Council is reminded that only those Members present at the previous meeting should vote and, in doing so, should be influenced only by seeking to ensure that the minutes are an accurate record.

5 **Chairman's Announcements**

To receive any announcements which the Chairman of the Council may wish to make.

6 **Petitions**

To receive any petitions from members of the public.

7 **Notices of Motions**

1. **Motion 598 (Councillor N Letch – 18 October 2023)**

The Council has before it a **MOTION** submitted for the first time:

“This Council resolves to write to Devon County Council and demonstrates its support for the mobile library service, to see it maintained and that other community service options are considered to ensure the viability of the service.”

In accordance with Procedure Rule 14.4, the Chairman of the Council has decided that this Motion (if moved and seconded) be dealt with at this meeting.

2. Motion 599 (Councillor L Taylor – 19 October 2023)

The Council has before it a **MOTION** submitted for the first time:

“This Council condemns the repeated failure of the respective authorities to repair the wall abutting the River Lowman at Chapel Street in Tiverton.

The Council requests the Director of Place to contact both Devon County Council as the highway authority and the Environment Agency as the river authority, to ensure that they understand the need to resolve this as a matter of priority.”

In accordance with Procedure Rule 14.4, the Chairman of the Council has decided that this Motion (if moved and seconded) be dealt with at this meeting.

8 **Reports** (*Pages 29 - 110*)

To receive and consider the reports, minutes and recommendations of the recent meetings as follows:

1. Cabinet
 - 19 September 2023
 - 17 October 2023 (Recommendation to Council, Damp and Mould Policy, new)
2. Scrutiny Committee
 - 2 October 2023
3. Audit Committee
 - 24 October 2023 (to follow)
4. Homes PDG
 - 26 September 2023
5. Economy PDG
 - 5 October 2023
6. Environment PDG
 - 10 October 2023 (to follow)
7. Community PDG
 - 24 October 2023 (to follow)
8. Planning Committee
 - 27 September 2023

9. Standards Committee
- 18 October 2023

9 **Revised Allocation** (*Pages 111 - 112*)

The revised allocation is necessary following the departure of 1 Member from the Conservative Group to become an Independent Member of Council.

It is **recommended**:

- (a) that the Council approve the allocation of seats on Committees and other Council Bodies as shown on the schedule;
- (b) that Members be appointed to Committees in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- (c) that Members also be appointed to Working Groups and other Internal Bodies in accordance with the names notified to the Chief Executive by each of the Political Groups represented on the Council, to give effect to the approved allocation of seats in (a) above;
- (d) that the Chief Executive be authorised to make changes to membership of Committees, Working Groups and other Internal Bodies as may be notified to him from time to time by the relevant Political Group to which those seats have been allocated by the Council.
- (e) that the appointments to seats remaining to be filled by ungrouped Members shall be made at this meeting.

10 **Governance Briefing Note** (*Pages 113 - 118*)

To receive a report from the District Solicitor and Monitoring Officer providing Members with an update on the work carried out so far on the proposed change to the governance system.

11 **State of the District Debate**

The Leader has requested that consideration be given to an appropriate subject and format for a State of the District Debate.

12 **Questions in accordance with Procedure Rule 13**

To deal with any questions raised pursuant to Procedure Rule 13 not already dealt with during the relevant Committee reports.

13 **Special Urgency Decisions**

To note any decisions taken under Rule 16 (of the Constitution) Special Urgency – no decisions of this kind have been made since the last meeting.

14 **Questions to Cabinet Members**

To receive answers from the Cabinet Members to questions on their portfolios from other Members.

15 **Members Business**

To receive any statements made and notice of future questions by Members.

Note: the time allowed for this item is limited to 15 minutes.

Meeting Information

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

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

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

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

Public Wi-Fi is available in all meeting rooms.

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **COUNCIL** held on 6 September 2023 at 6.00 pm

Present Councillors

F W Letch (Chairman)
C Adcock, M Binks, N Bradshaw, D Broom, E Buczkowski, J Buczkowski, J Cairney, S Chenore, S Clist, Mrs F J Colthorpe, C Connor, L Cruwys, G Czapiewski, G Duchesne, M Farrell, B Fish, M Fletcher, C Harrower, B Holdman, M Jenkins, S Keable, L Knight, N Letch, J Lock, S Penny, J Poynton, R Roberts, S Robinson, L Taylor, H Tuffin, N Woollatt and D Wulff

Apologies Councillors

G Cochran, J Frost, R Gilmour, L G J Kennedy, G Westcott and J Wright

Present Officers:

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive & S151 Officer), Maria De Leburne (District Solicitor & Monitoring Officer), Dean Emery (Corporate Manager for Income, Benefits and Recovery), Andrew Seaman (Democratic Services Manager) and Angie Howell (Democratic Services Officer)

29 **APOLOGIES (00:08:13)**

Apologies were received from Cllr G Cochran, J Frost, R Gilmour, L Kennedy, G Westcott and J Wright.

Cllrs A Cuddy, J Downes and A Glover attended via Teams

30 **PUBLIC QUESTION TIME (00:08:33)**

Sue Griggs

1. I am a resident of St Andrew Street & have watched the progression of the project there. I have said before that as a development company associated with MDDC right in the town centre it should be an exemplary run & managed site, setting an example to others & it really hasn't been at all. There were problems at the site even before the pandemic. Other building sites got back working much more quickly than the St George's site. Why didn't it? Residents are deeply disappointed & very worried about what will become of the site with good cause, we have seen u-turns before. Residents & the community need assurances that if this development does become housing for the 60yrs & over then it stays that way. What is your fall back or back up plan if plan A fails? I would urge all those voting this evening to not agree to the recommendation until you have a robust fall back or plan B that you can agree on.
2. Why isn't this being fully scrutinised? The chair of scrutiny said that there would be no repeat of this happening again. How can this be ensured unless we fully understand how it all went so wrong when the expectations of the project were so high & both councillors & officers confident at the time of conception it would succeed? Perhaps a scrutiny committee from another county could be asked to scrutinise. MDDC should not be marking its own homework.
3. A member of cabinet said that the decision to set up a Property Development Company was made by councillors not officers. Councillors set the strategic direction & officers are responsible for the management of the council & will ensure the implementation of agreed policies, supporting & advising councillors. I recall officers explaining how the property Development Co. could work, the pitfalls and I don't remember there being any

major worries, it all seemed to be regarded as a very good plan & would be very beneficial to the council. Did officers at the time of its concept or at any time afterwards advise not to go forward with plans to create a Property Development Company?

4. It appears there have been no sales at St George's Court, although we were told that there were 2 reserved at one time & there was considerable interest. Who and why was the decision made not to use a local estate agency? Tiverton has 6 reputable agencies all with local knowledge & a data base of possible applicants. MDDC have a policy to support local businesses surely this contract to market & sell should've come to local agents?
5. What measures were put in place to safeguard the money put in by MDDC?

The Chairman explained that a written answer would be provided.

Danielle Furmiger

Concern was raised as to whether St George's Court was appropriate housing for those over 60 and whether this housing would meet their needs. It was highlighted that this site had slopes and hills within the surrounding area as well as how emergency services would access these sites. Risks to children was also raised as it was felt that the wall to the river was low. It was also asked if the Council could confirm that the risks of this site had been fully considered and that mitigation plans would be in place. In addition it was asked where could the public access these within the housing policy.

The Chairman explained that a written answer would be provided.

Paul Elstone

Question 1

In response to a public question at the Cabinet Meeting of the 29 August 2023, it was said that the impaired value of the outstanding loan to 3 Rivers for St George's Court was £8.65 million. It is known the land at Knowle Lane Cullompton cost £2.75 million. Given the outstanding 3 Rivers loan amount is £21.3 million, can the rest of this amount be fully explained?

Question 2

The Cabinet Member for Finance, at Cabinet meeting on the 16 August 2023 said: "I want to be really clear about this, every decision to lend money for a particular project was always made by Councillors, and in particular by the Leader and the Cabinet at the time. Many, if not all those, responsible for those poor decisions are no longer part of this Council – perhaps that is telling enough". These words are not shown in the minutes of the meeting but are on the sound recording.

It should not be forgotten that leading members of this current Cabinet were part of the Cabinet during 2019 and 2020 and were very much involved in the approval of loans for 3 Rivers projects. It should also not be forgotten that these very poor decisions, leading to massive financial losses, were based on information given to Elected Members by others. Given that several of the same people are in fact still actively involved, how can the residents of Mid Devon have any confidence in the information being provided to Council Members now, or in the quality of decision making by this new Cabinet and that further substantial debt, or ongoing liabilities, will not be incurred by the residents of Mid Devon?

The Chairman explained that a written answer would be provided.

Roger Davey

Concern and frustration was expressed over the St George's Court site with the following questions asked:

Question 1

Why was this multi million pound contract awarded to EBC without going out to tender?

In response, the Cabinet Member for Finance explained that 3 Rivers Development Ltd was not restricted to the same tendering process and regime that would apply to the Council. How this contract was awarded to 3 Rivers Development Ltd was a matter of public record and noted that this question had been answered on a previous occasion.

Question 2

How much of the losses on this site does the council expect to recoup from the sale of St George's Court to their housing department?

In response, the Cabinet Member for Finance explained that the potential sale and purchase was a live negotiation which would be subject to commercial valuations, more than one, for the precise amount is unknown and so an exact amount could not be provided. However sensible estimates had been provided as part of the decision making process undertaken by Cabinet at its meeting held on 29 August 2023.

Question 3

Will the council give an absolute assurance to council tenants in the older age group that they will not be forced to leave their homes in order to free up larger properties for people on the waiting list?

In response, the Cabinet Member for Housing and Property Services assured that tenants in the older age group that they would not be forced to leave their homes in order to free up larger properties for people on the waiting list.

Question 4

Will adaptations to St George's Court be necessary for older residents and if so what is the estimated cost per unit?

In response, the Cabinet Member for Housing and Property Services explained that a number of bathroom adaptations would be required, with an estimated sum presented to the Cabinet on the 29 August 2023. It was assumed that additional expenses would form part of the negotiations between the two parties.

Barry Warren

On Page 72 of your papers are the minutes of the Cabinet discussion about the potential closure of 3 Rivers. You will also see the response of the S151 Officer when asked whether the confidential reports might be published publicly in the future - the Deputy Chief Executive (S151) explained that currently reports were live commercial reports that needed to be kept confidential.

Question 1

The day after that Cabinet meeting, the S151 Officer was interviewed about the closure of 3 Rivers by an online news blog, called Room 151, read by Council Finance Officers.

They published an Item titled "Mid Devon to close property company due to challenging housing market" and quoted this Council's S151 Officer as saying: "The council anticipates getting a significant amount of the money back once the assets have been sold. It is unlikely that we will get all of the loan back, however, we anticipate getting two-thirds back."

Given that the current 3 Rivers outstanding loan is £21 million, this means he anticipates a loss to the Council of around £7million.

Members of the public had previously tried to obtain an estimate of potential Council losses but were always being told such figures were commercially sensitive.

Is it right that an Officer should reveal confidential, and commercially sensitive, information to an online news source, when it is withheld from the Mid Devon public?

Question 2

Is it right that the Mid Devon public have to get the information about the size of the potential Council losses from the Internet rather than direct from their elected Members?

The Chairman explained that a written answer would be provided.

Sophia Beard

Would the Council confirm that the housing needs consultation process has not included any consultation with the residents of St Andrew's Street, Ham Place or Angel Hill over the rumoured change of the status of the development of St George's Court of that of private ownership to dwellings of social housing?

Would the Council here tonight confirm their intention to commit to a public consultation on the issue of the change of status of the development and with whom with those people the development would affect?

Would the Chairman of the Scrutiny Committee assure the public that the investigation into the decisions that led to this current situation would be fully transparent with all information made available to the public?

Would the Chairman of the Scrutiny Committee also confirm that whilst the investigation is not in itself to find blame. If or when blame is found that appropriate and strong action would be taken?

If St George's Court gets used for social housing, would the Council screen the tenants, not just on their needs but also on their individual suitability for the site?

Would there be any provisions made for the safety of pedestrians on St Andrew's Street North, as vehicles accelerate up a steep slope towards a pavement where children play?

Would the Council prioritise the wellbeing of the existing social tenants who are already dealing with significant issues in respect of waste storage, collection and rats?

Would the Council accelerate discussions in respect of the parking provision and revisit the issue of residents parking, whether there are grounds to declare that St George's Court, St Andrew's Street North and South, Tumbling Fields, Little Silver are an area?

Would the Council provide indemnity in the event of any flooding to cover the impact a flooding event would have on the households affected by rising premiums?

Can the Council outline how it proposes to consult with residents both now and in the future to address the issues and concerns being collectively raised here in respect of the impacts St George's Court is already having on the surrounding community?

The Chairman explained that a written answer would be provided.

Tim Bridger

Question 1

Item 1 – apologies – I note that this Council has once again accepted apologies from Cllr Frost. Cllr Frost is yet to attend a single meeting or carry out any duties as a Cllr. Could the

Leader please clarify when Cllr Frost will be standing down and an election taking place for someone willing to undertake the role.

Question 2

Motion 597 - could the Council clarify where – if anywhere – on land owned by Mid Devon animals are being offered as prizes? Could we suggest that if the Council wants to take a stand against animal cruelty, it takes steps to prevent the use of MDDC land for the Boxing Day Hunt and to enforce the regulations regarding public drinking in restricted areas, public collection without a licence, dog and horse fouling, drunk and disorderly behaviour by supporters, and unauthorised horse and traffic movement in the Town Centre Pedestrian Zone.

Question 3

Item 8 – Reports of Cabinet 6th June, Scrutiny 14 & 24 August, Audit Committee 27 August – on 6 June the s151 Officer presented the Revenue and Capital Outturn 2022/23 that stated a positive overall financial position for the Council, despite a 4.1 million impairment for 3Rivers, and concluded that the 3RL position should remain funded going forward. 6 weeks later following an external report the s151 Officer told the Trade Press that the total estimated loss was over £7million. These two positions cannot be reconciled. Can officer please confirm why they were more open with a trade publication than with the public of Mid Devon.

Question 4

In regards to the HRA (Housing Revenue Account) valuation of St George's Court, would there be an open process to show how it would be valued, including having registered and successful social housing providers bid for the site?

The Chairman explained that a written answer would be provided.

Steve Bush

Cabinet have stated that there is no need to refer decisions about Affordable Home purchase to the Homes PDG as there is already an agreed policy in place.

I am unable to find any MDDC Housing Policy that shows that full consideration has been given requesting over 60's to redeploy to smaller size accommodation to free up larger properties for families or that any risk and mitigation plans have been developed for such a move.

Our concern is that these properties as they have been developed are entirely unsuitable for elderly residents, and would require considerable adaption to make them so. There are no ground floor properties due to the risk of flooding, for example. The site is extremely uneven and the entrance to it is on a severe slope. Where would aids such as mobility scooters be stored? How would tenants be evacuated in the event of a flood or fire? Are there lifts? Are those lifts large enough for an Ambulance Service gurney?

I am certainly not opposed to the reallocation of these properties to social housing, indeed I have been calling for that over many years. But they are surely more suitable for young couples or single tenants who are, for example, key workers in public services such as the NHS or education, and not for elderly tenants. Those who cannot afford the sky high private rental sector or large deposit on a mortgage.

Can the Council confirm that such a MDDC Housing Policy exists, including risk and mitigation measures and if so, where can this policy be found?

The Chairman explained that a written answer would be provided.

Nick Quinn

These questions were read out by the Chairman, on behalf of the resident.

The minutes and some of the reports presented to this meeting of Cabinet have been attached as a Supplementary Agenda. However, the Large Sites Options Appraisal Report has not been attached.

Question 1

Why has the Cabinet approved the purchase of St George's Court, without setting a maximum amount for this, even confidentially, effectively issuing an open cheque?

In response, the Cabinet Member for Finance explained that it was not for Cabinet to set a specific budgetary envelope for a financial transaction, between the HRA and 3 Rivers Property Development Ltd, this would be an arm's length negotiation that would require external valuations in order to assist both parties in their deliberation.

Question 2

The purchase price of St George's Court will be many millions of pounds. Doesn't a purchase for such a large amount as this, require proper approval by Full Council?

In response, the Cabinet Member for Finance explained that Full Council had already agreed a budget for the HRA- the 500 unit development programme- therefore the basis that the Post Hill development was no longer financially viable the agreed budget had been wired to a currently available and better value for money opportunity.

Question 3

How will the cost of this purchase be funded?

In response, the Cabinet Member for Finance explained that the HRA would fund this acquisition through reserves, money retained from the right to buy receipts which were time limited and the remainder from borrowing at preferential rates from the Government's public works loan board.

Deborah Worth

It was raised that residents surrounding St George's Court have had a challenging time.

It was asked whether this Council would, once everything had been reviewed, be honest and admit the faults and if needs be, make a public apology to the whole of Mid Devon that funded this absolute disaster.

In regards to St George's court having potentially disabled and elderly tenants, the accessibility to the site and the risk of potential accidents. It was asked if the Council would apologise should an accident occur.

The Chairman explained that a written answer would be provided.

Reuben Beard

The following questions – in relation to 3 Rivers Development Ltd - were read out by the Cabinet Member for Finance, on behalf of the resident.

How much each property cost to build?

Where is the complete breakdown of money spent?

Have the bills already been paid for 3 Rivers Development Ltd or are they in arrears?

How much money raised from council tax went on this build?

Will the local people who pay council tax & have funded this project, get first refusal to rent these properties?

Who will be responsible for maintenance & upkeep of the project?

Will the residents of St George's be getting own parking spaces?

If so can the residents of St Andrew Street also look forward to residents parking?

In response, the Cabinet Member of Finance explained that because of the commercial sensitivity, answers could not be provided to some of the questions asked, however it could be confirmed that 3 Rivers Development Ltd paid all of its suppliers within 30 days as is common place within the industry. No money from council tax had currently been used to support this build, however, it was likely that the company would incur losses that would need to be funded by the Council.

The Cabinet on the 29 August 2023 resolved to, subject to a valuation and negotiation to allow the HRA to consider the purchase of all units at St George's Court. If this purchase was completed the HRA would take over all associated maintenance, upkeep and ownership of all parking spaces on the site and it would managed by the local lettings policy.

Note: The Chairman was interrupted and disrespected during public question time and any questions/statements that were personal attacks on members or officers, scurrilous or otherwise, will not appear in these minutes.

31 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00:46:37)**

Members were reminded of the need to make declarations where appropriate.

32 **MINUTES (00:46:44)**

The minutes of the previous meeting, held on 19 July 2023, were approved as a correct record and **SIGNED** by the Chairman.

33 **CHAIRMAN'S ANNOUNCEMENTS (00:48:17)**

Since the last Full Council, the Chairman attended the Mid Devon Show as well as the Burma Star Parade in Tiverton.

The Chairman raised that Mid Devon's Civic Service was due to take place on the 8 October at 3pm at the Parish Church in Crediton.

34 **PETITIONS (00:50:06)**

No petitions were presented.

35 **NOTICES OF MOTIONS (00:50:12)**

1. **Motion 596 (Councillor R Gilmour – 10 July 2023)**

The Council has before it a **MOTION** submitted for the first time:

- 1) Mid Devon District Council call on Devon County Council to fulfil their statutory obligations under Section 41 of the 1980 Highways Act, that requires them to maintain Devon's roads and to keep them safe. Further, to explain the financial position regarding the funds promised by HMG, and received to date, the proposed remedial actions for the roads in Mid Devon District Council to be undertaken before this winter and the spending/budget allocations between 2022/3 - 2025/6.
- 2) Mid Devon District Council agrees to establish an on-line petition to include the following:

Our roads in Mid Devon have become dangerous and a liability to drivers, passengers, other road users and pedestrians. Now, we the electorate of Mid Devon District Council are calling on Devon County Council to fix our dangerous roads and if they do not have sufficient funding to demand this from Central Government.

The **MOTION** was **MOVED** by Cllr S Robinson and Seconded by Cllr G Duchesne

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that this Motion be dealt with at this meeting.

Upon a vote being taken, the **MOTION** was declared to have **CARRIED**.

2. Motion 597 (Councillor L Kennedy – 10 July 2023)

The Council has before it a **MOTION** submitted for the first time:

In the interests of animal welfare this council prohibits the use of animals as prizes in any form of competition, games of chance or tests of skill of any kind at events commercial or private, promotions or gatherings organised or not on any land owned or controlled by Mid Devon District Council.

The **MOTION** was **MOVED** by Cllr L Taylor and Seconded by Cllr B Fish

In accordance with Procedure Rule 14.4, the Chairman of the Council had ruled that this Motion be dealt with at this meeting.

Consideration was given to:

- This affirmed the principle that animals should not be used as prizes.
- This was received via a lobbying letter and that officers were not aware of reports or complaints on this matter and that it was believed that this was not a local issue. In addition, it was raised that this practice was already not encouraged. It was highlighted that a lack of legislation on this topic meant that lobbying the local MP was more appropriate.

Upon a vote being taken, the **MOTION** was declared to have **CARRIED**.

Note: Cllr N Woollatt voted against.

36 CABINET - REPORT OF THE MEETING HELD ON 6 JUNE 2023 (00:55:35)

The Leader presented the report of the meeting of the Cabinet held on 6 June 2023.

1. Annual Treasury Management Review 2022/23 (minute 5)

The Leader **MOVED**, seconded by Cllr J Buczkowski

THAT the recommendations of the Cabinet as set out in Minute 5 be **ADOPTED**

Following discussion and upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Reason for the Decision – So that the treasury indicators could be approved and the Cabinet were kept updated on the treasury activities for 2022/23.

37 CABINET - REPORT OF THE MEETING HELD ON 4 JULY 2023 (00:57:23)

The Leader presented the report of the meeting of the Cabinet held on 4 July 2023

38 **CABINET - REPORT OF THE MEETING HELD ON 1 AUGUST 2023 (00:57:55)**

The Leader presented the report of the meeting of the Cabinet held on 1 August 2023.

1. Care Leavers Council Tax Exemption (minute 24)

The Leader **MOVED**, seconded by Cllr J Lock

THAT the recommendations of the Cabinet as set out in Minute 24 be **ADOPTED**

Following discussion and upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Reason for the Decision – Helps Mid Devon to support customers and vulnerable households, bringing the Council and community closer together by working in partnership with other councils.

39 **CABINET - REPORT OF THE MEETING HELD ON 16 AUGUST 2023 (00:59:57)**

The Leader presented the report of the meeting of the Cabinet held on 16 August 2023.

1. 3 Rivers Options Appraisal Report (minute 30)

The Leader **MOVED**, seconded by Cllr S Keable

THAT the recommendations of the Cabinet as set out in Minute 30 be **ADOPTED**

Cllr N Woollatt **MOVED** a written **AMENDMENT**, seconded by Cllr J Lock that the following be added to recommendation 1 with minute 30:

And that regular updates on progress with matters relating to that soft closure be made to Cabinet meetings in order that all members can monitor and be reassured that matters are progressing in an appropriate and timely way.

Upon a vote being taken the **AMENDMENT** was declared to have been **CARRIED**.

Note: Cllr Mrs F J Colthorpe Abstained from voting.

The Leader **MOVED** in accordance with Procedure Rule 19.7:

“That the vote in respect of this **AMENDED MOTION** shall be by Roll Call”

A roll call of Members present at the meeting was then taken

Those voting **FOR** the **AMENDED MOTION**: Cllrs: C Adcock, M Binks, N Bradshaw, D Broom, E Buczkowski, J Buczkowski, J Cairney, S Chenore, S Clist, Mrs F J Colthorpe, C Connor, L Cruwys, G Czapiewski, G Duchesne, M Farrell, B Fish, M Fletcher, C Harrower, B Holdman, M Jenkins, S Keable, L Knight, F Letch, N Letch, J Lock, S Penny, J Poynton, R Roberts, S Robinson, L Taylor, H Tuffin, N Woollatt, D Wulff

Those voting **AGAINST** the **AMENDED MOTION**: None

Those **ABSTAINING** from the voting: None

The **AMENDED MOTION** was declared to have been **CARRIED**.

Reason for the Decision – The Company, at its inception, was set up to help partially fund and link to a number of key strategic objectives in the Corporate Plan. However, 6 years later the Council now needs to make a fundamental decision which will enable it to concentrate on the delivery of a new Corporate Plan.

40 CABINET - REPORT OF THE MEETING HELD ON 29 AUGUST 2023 (01:13:19)

The Leader presented the report of the meeting of the Cabinet held on 29 August 2023.

1. Qtr 1. Budget Monitoring (minute 37)

The Leader **MOVED**, seconded by Cllr J Buczkowski

THAT the recommendations of the Cabinet as set out in Minute 37 be **ADOPTED**

Following discussion and upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Reason for the Decision – The financial resources of the Council impact directly on its ability to deliver the Corporate Plan prioritising the use of available resources in 2023/24. The Monitoring Report indicates how the Council's resources have been used to support the delivery of budgetary decisions.

41 SCRUTINY COMMITTEE - REPORT OF THE MEETING HELD ON 19 JUNE 2023 (01:15:41)

Cllr S Robinson of the Scrutiny Committee presented the report of the meeting held on 19 June 2023.

42 SCRUTINY COMMITTEE - REPORT OF THE MEETING HELD ON 17 JULY 2023 (01:16:18)

Cllr S Robinson of the Scrutiny Committee presented the report of the meeting held on 17 July 2023.

43 SCRUTINY COMMITTEE - REPORT OF THE MEETING HELD ON 14 AUGUST 2023 (01:16:40)

Cllr S Robinson of the Scrutiny Committee presented the report of the meeting held on 14 August 2023.

44 SCRUTINY COMMITTEE - REPORT OF THE MEETING HELD ON 24 AUGUST 2023 (01:17:07)

Cllr S Robinson of the Scrutiny Committee presented the report of the meeting held on 24 August 2023.

45 AUDIT COMMITTEE - REPORT OF THE MEETING HELD ON 27 JUNE 2023 (01:17:24)

The Vice Chairman of the Audit Committee presented the report of the meeting held on 27 June 2023.

46 AUDIT COMMITTEE - REPORT OF THE MEETING HELD ON 22 AUGUST 2023 (01:18:15)

The Vice Chairman of the Audit Committee presented the report of the meeting held on 22 August 2023.

47 ENVIRONMENT POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 20 JUNE 2023 (01:18:49)

The Chairman of the Environment Policy Development Group presented the report of the meeting held on 20 June 2023.

48 ENVIRONMENT POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 15 AUGUST 2023 (01:19:29)

The Chairman of the Environment Policy Development Group presented the report of the meeting held on 15 August 2023.

49 HOMES POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 13 JUNE 2023 (01:20:26)

The Chairman of the Homes Policy Development Group presented the report of the meeting held on 13 June 2023.

50 HOMES POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 8 AUGUST 2023 (01:21:12)

The Chairman of the Homes Policy Development Group presented the report of the meeting held on 8 August 2023.

51 COMMUNITY POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 27 JUNE 2023 (01:21:50)

The Chairman of the Community Policy Development Group presented the report of the meeting held on 27 June 2023.

52 COMMUNITY POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 22 AUGUST 2023 (01:22:27)

The Chairman of the Community Policy Development Group presented the report of the meeting held on 22 August 2023.

53 ECONOMY POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 8 JUNE 2023 (01:23:10)

The Vice Chairman of the Economy Policy Development Group presented the report of the meeting held on 8 June 2023.

54 ECONOMY POLICY DEVELOPMENT GROUP - REPORT OF THE MEETING HELD ON 3 AUGUST 2023 (01:23:43)

The Vice Chairman of the Economy Policy Development Group presented the report of the meeting held on 3 August 2023.

Cllr N Letch noted that she was in attendance of this meeting.

55 PLANNING COMMITTEE - REPORT OF THE MEETING HELD ON 14 JUNE 2023 (01:24:33)

The Chairman of the Planning Committee presented the report of the meeting held on 14 June 2023.

56 **PLANNING COMMITTEE - REPORT OF THE MEETING HELD ON 12 JULY 2023
(01:25:05)**

The Chairman of the Planning Committee presented the report of the meeting held on 12 July 2023.

57 **PLANNING COMMITTEE - REPORT OF THE MEETING HELD ON 30 AUGUST 2023
(01:25:27)**

The Chairman of the Planning Committee presented the report of the meeting held on 30 August 2023.

58 **STANDARDS COMMITTEE - REPORT OF THE MEETING HELD ON 21 JUNE 2023
(01:25:56)**

The Vice Chairman of the Standards Committee presented the report of the meeting of the Standards Committee held on 21 June 2023.

1. Task and Finish Group (Council Procedure Rules Review) (minute 10)

Cllr S Robinson **MOVED**, seconded by Cllr N Woollatt

THAT the recommendations of the Standards Committee as set out in Minute 10 be **ADOPTED**

Following discussion and upon a vote being taken the **MOTION** was declared to have been **CARRIED**.

Reason for the Decision – There is a need to update a review the Constitution when necessary.

59 **QUESTIONS IN ACCORDANCE WITH PROCEDURE RULE 13 (01:39:33)**

The following written questions were submitted by Cllr Woollatt and answered by the Leader of the Council:

Question 1.

On February 22 2023 in response to Motion 591 this Council resolved to change from the Cabinet system of governance to a modernised Committee system to be implemented from the Annual Meeting of 2024.

The necessary changes to the Constitution will need to be agreed prior to that by the Standards Committee and recommended by them to Full Council. There are now only two Standards meetings scheduled that this could take place at (18 October and 7 February 2024).

What actions have so far been undertaken by officers on the work and preparations that they need to make to implement Motion 591?

Answer

On the 22 February at Full Council the District Solicitor and Monitoring Officer stated that if members indicate to go to a Committee System we would take this Motion as a steer to go away and start preparing the governance framework for this type of system and that it would need to be brought back to Full Council for a final decision at some point in the future.

On 14 August the District Solicitor and Monitoring Officer stated in Scrutiny Committee that she would be bringing a briefing note/update report to Full Council to the next Full Council (1 November 2023) and suggested that this come to Scrutiny in December 2023. Scrutiny Committee agreed that this would be added to their Work Plan in December 2023.

Question 2.

Which of the two scheduled Standards Committee meetings is it planned to present the necessary Constitutional changes for the committee to consider and agree their recommendation to Council? Or if it is intended to schedule an additional meeting for this purpose which date is that to be scheduled in for?

Answer

Therefore the Motion can go before the 7 February 2024 Standards Committee.

Question 3.

The recent advert for a new member services manager included the following statement: "Our Executive structure includes policy development groups as well as a traditional scrutiny committee and a variety of working groups. One key element of the role will be to work with senior Councillors and Leadership Team to further develop the effectiveness of these bodies in identifying future policy as well as delivering on our existing corporate priorities."

Why did the job advert make reference to 'developing the effectiveness' of PDGs and not make any reference to the impending change of governance which Council had resolved to be implemented from the 2024 Annual Meeting?

Answer

The Job Description is based on the current structure at MDDC. At this time the Council still operates under a cabinet system and therefore it was appropriate to advertise the role based on existing practices.

A supplemental statement was raised which highlighted that the Council should be working towards a change in Governance and that this was not included in the job advert, this raised concern as it was felt that it appeared that the Council was not moving to a committee system.

60 SPECIAL URGENCY DECISIONS (01:43:45)

With regard to any decisions taken under Rule 16 (of the Constitution) Special Urgency taken since the last meeting. The Chairman informed the meeting that no such decisions had been taken in that period.

61 QUESTIONS TO CABINET MEMBERS (01:43:49)

Cllr B Fish asked the Cabinet Member for Housing and Property Services if there were any mitigation measures in place in relation to Reinforced Autoclaved Aerated Concrete (RAAC) if present within any of the Council's municipal and residential buildings.

The Cabinet Member for Housing and Property Services explained that no communications had been received from Government, in addition the Council had reached out to the relevant people on a risk based approach which included looking at the age of properties. Survey work had not identified RAAC. Buildings built in a particular era would be investigated.

Cllr B Holdman asked what assurance could be given that St George's Court would be used for those over 60 and not for mixed purposes. In addition it was asked what the scale would be for retro fitting the site. In addition, it was asked if mobility scooter charging points would be installed at the site.

The Cabinet Member for Housing and Property Services explained that the HRA could agree to purchase the site subject to valuations, a local lettings plan would be created to ensure that desired aims were met. Mid Devon Housing (MDH) would be required to publish information to any agreed local lettings plan and then advertise homes for rent and this would have to be specified on the adverts. In terms of adaptations these would be discussed at the appropriate time.

It was also added that mobility scooter charging points would be considered as a provision and add that the site already had Electric Vehicle (EV) charging points.

Cllr S Robinson raised concern over the size of the lifts at St George's Court and their appropriateness. In addition, with the steepness of the slope there should be handrails.

To which the Cabinet Member for Housing and Property Services gave reassurance that these comments would be considered.

62 MEMBERS BUSINESS (01:53:50)

Cllr N Woollatt gave notice of a future question which would relate to the use of single use plastic cups and why these were still being used for meetings.

Cllrs expressed their concern over the behaviour of particular members of the public and their attitude towards officers that work at the Council.

(The meeting ended at 8.00 pm)

CHAIRMAN

Full Council – 6 September 2023

Public Question Time

Sue Griggs

Question 1

I am a resident of St Andrew Street & have watched the progression of the project there. I have said before that as a development company associated with MDDC right in the town centre it should be an exemplary run & managed site, setting an example to others & it really hasn't been at all. There were problems at the site even before the pandemic. Other building sites got back working much more quickly than the St George's site. Why didn't it? Residents are deeply disappointed & very worried about what will become of the site with good cause, we have seen u-turns before. Residents & the community need assurances that if this development does become housing for the 60yrs & over then it stays that way. What is your fall back or back up plan if plan A fails? I would urge all those voting this evening to not agree to the recommendation until you have a robust fall back or plan B that you can agree on.

Answer

The Council during the meeting considered the recommendation made by Cabinet and will need to consider alternative options if this decision is not implemented. Other considerations would need to be fully considered based on their associated merits, risks and cost benefits.

Question 2

Why isn't this being fully scrutinised? The chair of scrutiny said that there would be no repeat of this happening again. How can this be ensured unless we fully understand how it all went so wrong when the expectations of the project were so high & both councillors & officers confident at the time of conception it would succeed? Perhaps a scrutiny committee from another county could be asked to scrutinise. MDDC should not be marking its own homework.

Answer

The Chair of Scrutiny has requested a "lessons learned" report

Question 3

A member of cabinet said that the decision to set up a Property Development Company was made by councillors not officers. Councillors set the strategic direction & officers are responsible for the management of the council & will ensure the implementation of agreed policies, supporting & advising councillors. I recall officers explaining how the property Development Co. could work, the pitfalls and I don't remember there being any major worries, it all seemed to be regarded as a very good plan & would be very beneficial to the council. Did officers at the time of its concept or at any time afterwards advise not to go forward with plans to create a Property Development Company?

Answer

Officers throughout the life span of the company have advised the Council on both the benefits and the associated risk of continued investment. The Council and its committees regularly considered risks and associated views from internal and external audit.

Question 4

It appears there have been no sales at St George's Court, although we were told that there were 2 reserved at one time & there was considerable interest. Who and why was the decision made not to use a local estate agency? Tiverton has 6 reputable agencies all with local knowledge & a data base of possible applicants. MDDC have a policy to support local businesses surely this contract to market & sell should've come to local agents?

Answer

The company is free to decide who it wishes to use as its agent(s)

Question 5

What measures were put in place to safeguard the money put in by MDDC?

Answer

Sound financial and legal governance measures were put in place at the outset of the company and this was after securing advice from external nationally-recognised lawyers and accountants. The Council also commissioned further scrutiny of these arrangements in 2019/20. The company and Council receive annual external audit which also makes conclusions on the operations and financial controls operated by the company.

Danielle Furmiger**Question**

Concern was raised as to whether St George's Court was appropriate housing for those over 60 and whether this housing would meet their needs. It was highlighted that this site had slopes and hills within the surrounding area as well as how emergency services would access these sites. Risks to children was also raised as it was felt that the wall to the river was low. It was also asked if the Council could confirm that the risks of this site had been fully considered and that mitigation plans would be in place. In addition it was asked where could the public access these within the housing policy.

Answer

St Georges Court is very centrally located in the town centre with excellent access to amenities and public transport. All paths and roadways are designed and built to adopted highways specification with full consideration of drop gradients and access provisions for those with lower mobility. Ground floor units have level access and there are lifts to all upper floors with the exception of the non-apartment (house) units. Should the Council HRA proceed with a purchase of these properties then all bathrooms will be converted to level access and a further risk assessment carried out regards the river wall. More information on the suitability of this site is provided in the Cabinet report of 29 August 2023.

Paul Elstone

Question 1

In response to a public question at the Cabinet Meeting of the 29 August 2023, it was said that the impaired value of the outstanding loan to 3 Rivers for St George's Court was £8.65 million. It is known the land at Knowle Lane Cullompton cost £2.75 million. Given the outstanding 3 Rivers loan amount is £21.3 million, can the rest of this amount be fully explained?

Answer

At the current stage a further detailed breakdown of this figure is commercially sensitive and therefore will not be made available.

Question 2

The Cabinet Member for Finance, at Cabinet meeting on the 16 August 2023 said: "I want to be really clear about this, every decision to lend money for a particular project was always made by Councillors, and in particular by the Leader and the Cabinet at the time. Many, if not all those, responsible for those poor decisions are no longer part of this Council – perhaps that is telling enough". These words are not shown in the minutes of the meeting but are on the sound recording.

It should not be forgotten that leading members of this current Cabinet were part of the Cabinet during 2019 and 2020 and were very much involved in the approval of loans for 3 Rivers projects. It should also not be forgotten that these very poor decisions, leading to massive financial losses, were based on information given to Elected Members by others. Given that several of the same people are in fact still actively involved, how can the residents of Mid Devon have any confidence in the information being provided to Council Members now, or in the quality of decision making by this new Cabinet and that further substantial debt, or ongoing liabilities, will not be incurred by the residents of Mid Devon?

Answer

These observations and questions were made and responded to at the aforementioned meeting of the Cabinet.

Barry Warren

On Page 72 of your papers are the minutes of the Cabinet discussion about the potential closure of 3 Rivers. You will also see the response of the S151 Officer when asked whether the confidential reports might be published publicly in the future - the Deputy Chief Executive (S151) explained that currently reports were live commercial reports that needed to be kept confidential.

Question 1

The day after that Cabinet meeting, the S151 Officer was interviewed about the closure of 3 Rivers by an online news blog, called Room 151, read by Council Finance Officers.

They published an Item titled "Mid Devon to close property company due to challenging housing market" and quoted this Council's S151 Officer as saying: "The

council anticipates getting a significant amount of the money back once the assets have been sold. It is unlikely that we will get all of the loan back, however, we anticipate getting two-thirds back.”

Given that the current 3 Rivers outstanding loan is £21 million, this means he anticipates a loss to the Council of around £7million.

Members of the public had previously tried to obtain an estimate of potential Council losses but were always being told such figures were commercially sensitive.

Is it right that an Officer should reveal confidential, and commercially sensitive, information to an online news source, when it is withheld from the Mid Devon public?

Answer

Information attributed to the officer was taken from public reports. Any confirmation on this topic after the Council had agreed the recommendations from Cabinet was to provide a very broad brush overview of the likely recovery rate, and was deemed to help address some of the misinformation that had been included in the local media from non-Council sources.

Question 2

Is it right that the Mid Devon public have to get the information about the size of the potential Council losses from the Internet rather than direct from their elected Members?

Answer

Further financial updates on the soft closure of the Council’s property development company will be provided to the Shareholder and other meetings of the Council on a regular basis. Decisions around commercial sensitivity will still need to be considered.

Sophia Beard

Question 1

Would the Council confirm that the housing needs consultation process has not included any consultation with the residents of St Andrew’s Street, Ham Place or Angel Hill over the rumoured change of the status of the development of St George’s Court of that of private ownership to dwellings of social housing?

Answer

Yes. There is no requirement to do so and local housing need is determined by Devon Home Choice and other allocations/housing needs data.

Question 2

Would the Council here tonight confirm their intention to commit to a public consultation on the issue of the change of status of the development and with whom with those people the development would affect?

Answer

No consultation is planned or required. See above.

Question 3

Would the Chairman of the Scrutiny Committee assure the public that the investigation into the decisions that led to this current situation would be fully transparent with all information made available to the public?

Answer

The Scrutiny Committee has agreed to hold a meeting to establish the Terms of Reference for a lessons learned report.

Question 4

Would the Chairman of the Scrutiny Committee also confirm that whilst the investigation is not in itself to find blame. If or when blame is found that appropriate and strong action would be taken?

Answer

Please see previous answer.

Question 5

If St George's Court gets used for social housing, would the Council screen the tenants, not just on their needs but also on their individual suitability for the site?

Answer

The needs of individual tenants would be taken into account within the local lettings approach.

Question 6

Would there be any provisions made for the safety of pedestrians on St Andrew's Street North, as vehicles accelerate up a steep slope towards a pavement where children play?

Answer

All highways matters including any safety requirements were incorporated into the approved design of the scheme. No further provisions are currently being considered.

Question 7

Would the Council prioritise the wellbeing of the existing social tenants who are already dealing with significant issues in respect of waste storage, collection and rats?

Answer

The Council will always prioritise the wellbeing of its tenants. If there are any specific concerns then tenants are encouraged to report these to Mid Devon Housing in the normal way.

Question 8

Would the Council accelerate discussions in respect of the parking provision and revisit the issue of residents parking, whether there are grounds to declare that St George's Court, St Andrew's Street North and South, Tumbling Fields, Little Silver are an area?

Answer

This is not relevant to the proposed acquisition of St Georges Court by Mid Devon Housing as adequate parking provision is made at that location. Therefore, this potential acquisition will not in itself prompt any wider review of tenant parking at other locations within Tiverton or more widely.

Question 9

Would the Council provide indemnity in the event of any flooding to cover the impact a flooding event would have on the households affected by rising premiums?

Answer

Flood risk and mitigation including adequate surface water drainage attenuation was a material consideration taken fully into account during the scheme design and planning process. No indemnity is therefore required.

Question 10

Can the Council outline how it proposes to consult with residents both now and in the future to address the issues and concerns being collectively raised here in respect of the impacts St George's Court is already having on the surrounding community?

Answer

No wider consultation process is required. However, should tenancy or neighbourhood issues emerge that are relevant to our future management of St Georges Court or any other existing properties then Mid Devon Housing would deal with these effectively under relevant policy provisions set out in more detail at <https://www.middevon.gov.uk/residents/mid-devon-housing/help-and-support/strategies-and-policies/>

Tim Bridger**Question 1**

Item 1 – apologies – I note that this Council has once again accepted apologies from Cllr Frost. Cllr Frost is yet to attend a single meeting or carry out any duties as a Cllr. Could the Leader please clarify when Cllr Frost will be standing down and an election taking place for someone willing to undertake the role.

Answer

Cllr Frost has been unable to attend Council meetings due to a health issue. I am now hopeful Cllr Frost will be attending future Council meetings and will be supported to ensure he fulfils his duties as an elected member of the Council.

Question 2

Motion 597 - could the Council clarify where – if anywhere – on land owned by Mid Devon animals are being offered as prizes? Could we suggest that if the Council wants to take a stand against animal cruelty, it takes steps to prevent the use of MDCC land for the Boxing Day Hunt and to enforce the regulations regarding public drinking in restricted areas, public collection without a licence, dog and horse fouling, drunk and

disorderly behaviour by supporters, and unauthorised horse and traffic movement in the Town Centre Pedestrian Zone.

Answer

That is correct.

Question 3

Item 8 – Reports of Cabinet 6th June, Scrutiny 14 & 24 August, Audit Committee 27 August – on 6 June the s151 Officer presented the Revenue and Capital Outturn 2022/23 that stated a positive overall financial position for the Council, despite a 4.1 million impairment for 3Rivers, and concluded that the 3RL position should remain funded going forward. 6 weeks later following an external report the s151 Officer told the Trade Press that the total estimated loss was over £7million. These two positions cannot be reconciled. Can officer please confirm why they were more open with a trade publication than with the public of Mid Devon.

Answer

The recommendations to fund to completion the 2 live projects and the associated working capital requirements, but provide no other funding, was agreed by Full Council. Councillors and Council were aware that if this action had not been taken, further and larger company losses would have been a likely outcome. The comments made in a trade publication were made after decisions of the Cabinet and Full Council – so were therefore less commercially sensitive and would help to clarify some local press articles quoting potential losses far in excess of this number. All Council meetings (including Cabinet, the Audit Committee and Scrutiny) have been provided with regular information relating to the financial position of the company and the risks of further investment and the decision to cease future investment. Councillors have made it very clear that it is their key statutory officers that should provide advice to them.

Question 4

In regards to the HRA (Housing Revenue Account) valuation of St George's Court, would there be an open process to show how it would be valued, including having registered and successful social housing providers bid for the site?

Answer

Mid Devon Housing will obtain an independent valuation of the properties alongside information from the District Valuer and negotiate with 3Rivers Development Ltd on that basis. This is the same process that would be undertaken for any market purchase of land and/or properties by the HRA.

Steve Bush

Cabinet have stated that there is no need to refer decisions about Affordable Home purchase to the Homes PDG as there is already an agreed policy in place.

I am unable to find any MDDC Housing Policy that shows that full consideration has been given requesting over 60's to redeploy to smaller size accommodation to free up larger properties for families or that any risk and mitigation plans have been developed for such a move.

Our concern is that these properties as they have been developed are entirely unsuitable for elderly residents, and would require considerable adaptation to make them so. There are no ground floor properties due to the risk of flooding, for example. The site is extremely uneven and the entrance to it is on a severe slope. Where would aids such as mobility scooters be stored? How would tenants be evacuated in the event of a flood or fire? Are there lifts? Are those lifts large enough for an Ambulance Service gurney?

I am certainly not opposed to the reallocation of these properties to social housing, indeed I have been calling for that over many years. But they are surely more suitable for young couples or single tenants who are, for example, key workers in public services such as the NHS or education, and not for elderly tenants. Those who cannot afford the sky high private rental sector or large deposit on a mortgage.

Can the Council confirm that such a MDDC Housing Policy exists, including risk and mitigation measures and if so, where can this policy be found?

Answer

All paths and roadways are designed and built to adopted highways specification with full consideration of drop gradients and access provisions for those with lower mobility. Ground floor units have level access and there are lifts to all upper floors with the exception of the non-apartment (house) units. Should the Council HRA proceed with a purchase of these properties then all bathrooms will be converted to level access. More information on the suitability of this site is provided in the Cabinet report of 29 August 2023.

The adaptation of properties for individual needs and other considerations relevant to the safety of (and access to) our properties are covered by several policies under the Homes Standard - available here <https://www.middevon.gov.uk/residents/mid-devon-housing/help-and-support/strategies-and-policies/>

Deborah Worth

It was raised that residents surrounding St George's Court have had a challenging time.

It was asked whether this Council would, once everything had been reviewed, be honest and admit the faults and if needs be, make a public apology to the whole of Mid Devon that funded this absolute disaster.

In regards to St George's court having potentially disabled and elderly tenants, the accessibility to the site and the risk of potential accidents. It was asked if the Council would apologise should an accident occur.

Answer

Please see previous answers in relation to a lessons learned report and the detailed response provided to a question from Mr Bush regarding the Homes Standard.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 19 September 2023 at 5.15 pm

Present

Councillors

L Taylor (Leader)
N Bradshaw, J Buczkowski, S Keable, J Lock, J Wright and
D Wulff

Also Present

Councillors

D Broom, E Buczkowski, G Duchesne, R Gilmour, B Holdman,
L Knight and S Robinson

Also Present

Officers:

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy Chief Executive (S151)), Maria De Leiburne (District Solicitor and Monitoring Officer), Richard Marsh (Director of Place), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Matthew Page (Corporate Manager for People, Governance and Waste), Jason Ball (Climate and Sustainability Specialist), Andrew Seaman (Democratic Services Manager) and David Parker (Democratic Services & Policy Research Officer)

46. **APOLOGIES**

Cllrs S Clist, G Czapiewski and A Glover attended via Teams.

47. **PUBLIC QUESTION TIME**

Paul Elstone

Question 1

My first question relates to the Minutes of the last meeting and the promise to provide written answers to my questions. These have not been provided. Can the Leader tell me what has happened to them?

In response, an officer explained that these had been published and circulated.

Question 2

There appears to be no reference to the windfall £3 million leisure services VAT refund in the financial forecast. Has this substantial VAT refund already been incorporated in the forecasting figures or is this still to be done?

Question 3

There is no clear evidence that the 3 Rivers bad debt has been included in any short or medium term financial forecasting. Bad debt currently anticipated at more than £7 million and increasing by an estimated £125,000 per month, this when interest and overhead liabilities are factored in. Has the 3 Rivers bad debt provision been made and if so where is it shown in the papers?

Question 4

The Cabinet Member for Finance is reported as saying Quote: “that no money from Council Tax has been used to support the St Georges Court build”. The S151 Officer has been reported as saying that no loans were taken out to fund 3 Rivers. Therefore who funded the St Georges Court build and who holds the bad debt liability?

Question 5

If Council Tax Payers have not funded St Georges Court then in my business environment and by implication then the same Council Tax Payers have no liabilities for the substantial bad debt. That there should be no reduction in the MDDC Council services resulting. If this statement is not correct can a full explanation be given?

The Leader stated that a written response would be provided to the remaining unanswered questions.

Nick Quinn

Question 1

Why is there no mention anywhere in this report of any impact from the, potentially multi-million pound, losses resulting from the closure of 3 Rivers Developments?

In response the Cabinet Member for Finance noted that it was currently estimated that the soft closure of 3Rivers will be delivered during the remainder of the financial year 23/24 and therefore previous impairment provision and any further write off considerations will be completed in the current year. Therefore, no impact would need to be carried forward to future budgets in the Council’s Medium Term Financial Plan.

Question 2

Does the Cumulative Budget Gap profile, shown at paragraph 5.1 in this report, take account of the purchase of the St George’s Court site, and the potential purchase of the Knowle Lane site, from 3 Rivers Developments - pushing forward the requirement for additional PWLB borrowing and the subsequent increased loan financing costs?

In response the Cabinet Member for Finance noted that any associated losses will be considered in the current financial year, as previously stated, and if a decision is made by the Housing Revenue Account to purchase any 3Rivers assets, it will be considered in its current and future budget planning scenarios.

Question 3

In the Appendix 2, attached to the report, is a table that gives a Summary of the Council’s General Fund MTFP position, with estimates for the coming years. The figures in the Net Interest Costs (Receipts) row shows a reduction of £2,000 (from 2023/24 to 2024/25), then a reduction of £30,000 (from 2024/25 to 2025/26) and then a further reduction of £10,000 (from 2025/26 to 2026/27), when it becomes stable. The note (2) under the table states these reductions “reflects the removal of the possible interest earned from 3 Rivers”.

Therefore, the figures shown in this table indicate that the Council is anticipating that it will continue to receive interest payments from 3 Rivers into the 2025/26 financial year - is this correct?

In response the Cabinet Member for Finance noted that Note 2 explained that we had removed any assumption of interest receipts from 3Rivers. The reason why this didn't then show a corresponding reduction in investment receipts is that they were offset by the current prevailing interest we would receive on normal Council treasury activities.

48. **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

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

49. **MINUTES OF THE PREVIOUS MEETING**

The minutes of the previous meeting, held on 29 August 2023, were approved as a correct record and **SIGNED** by the Leader.

50. **2024/25 - 2028/29 MEDIUM TERM FINANCIAL PLAN UPDATE**

Cabinet had before it a report* which updated Cabinet on the Medium Term Financial Plan (MTFP) which covers the period 2024/25 to 2028/29. This took into account the Council's key strategies (i.e. the Corporate Plan, Business Plans, Treasury Management Plan, Asset Management Plan, Work Force Plan and Capital Strategy) and demonstrated the financial resources to deliver the Corporate Plan. This models potential changes in funding levels, new initiatives, unavoidable costs and proposed service savings.

There was a priority to increase income over cutting services with a priority given to the Council's corporate priorities. At all times borrowing would be minimised and the use of reserves would only be done in a controlled and planned way. It was highlighted that an upcoming general election would impact on financial forecasts.

The following was considered:

- With regard to recommendation 3 of the report, it was encouraged that innovative ideas be welcomed in order to support the Council. The Deputy Chief Executive (S151) agreed and encouraged new ideas, he also encouraged the possibility of working in partnership with third party organisations. An all Member briefing was due to take place in mid-November which would allow Councillors to ask questions on the budget.
- It was asked what the success rate was of funding based on grants and bidding. The Deputy Chief Executive (S151) explained that it was around a 1 in 4 success rate, some funding had been successful. For example, the Council was successful in a £3m bid for the leisure centres. The Government had reduced grant funding and there was mixed success. Bidding for grants was something that this Council aimed to maximise. The Deputy Chief Executive (S151) reassured the Cabinet that all bids were of a high quality.
- Asked what the cost had been to the Council pursuing grants and bids, the Deputy Chief Executive (S151) explained that over the past 5 years the Council had likely spent a 6 figure sum towards bidding.

- Asked if the Rural Services Delivery Grant had been confirmed or whether it was likely to be withdrawn, the Deputy Chief Executive (S151) stated that there was no guarantee that this funding would remain as it was renewed on an annual basis. However, as a sparsity indicator, it is considered more likely that this grant will be continued and hence is included in the calculations.
- The Council's net zero commitments were raised, to which The Deputy Chief Executive (S151) acknowledged that this was a financial challenge for all Councils. He was hopeful that the Council could secure third party funding to work towards the Council's decarbonisation goals. Members are encouraged to attend the Net Zero Action Group and help prioritise the Climate Action Plan.
- It was raised that 2030 was not far off, the Deputy Chief Executive (S151) emphasised the importance of external funding to meet net zero targets and that this could not be achieved independently.
- The Council Tax Base was mentioned as well as long term growth and what this relied upon. There was a commitment not to develop the area for the potential Culm Garden Village, until the relief road was established. It was asked how this might impact long term growth for the Council, if neither of these were achieved. The Chief Executive explained that the planned development was at risk and did not directly impact the wider long term growth of the Council.
- Energy costs were highlighted as an issue within the District and it was asked how mitigating these costs might be achieved. The Corporate Manager for Finance explained that Cabinet had agreed to a contract back in July 2023 which accommodated preferential rates and usage of renewable energy. It was also added that increased level of investments into renewables was being looked into.
- There was a need to future proof the Council so that the Council would not miss potential funding grants. The Deputy Chief Executive (S151) encouraged Parishes to approach the Council should they need help to complete bids.
- Where shared services with other authorities had been considered. The Deputy Chief Executive (S151) explained that there were a few arrangements in place and that other opportunities were welcomed.

RESOLVED: That Cabinet Members:

1. Note the updated MTFP's for the General Fund covering the years 2024/25 to 2028/29
2. Agree the principles and endorse the approach to balancing the General Fund Revenue Budget outlined in paragraph 6.2.

3. Seek recommendations from the Policy Development Groups on the appropriate fees for Services to charge and the services areas where savings should be sought and to what level.

(Proposed by J Buczkowski, seconded by Cllr J Lock)

Reason for the decision:

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

Note: * Report previously circulated.

51. **NOTIFICATION OF KEY DECISIONS**

The Cabinet had before it, and **NOTED**, the notification of Key Decisions*.

The Leader highlighted how all areas of Mid Devon were impacted in some way by the recent flooding and emergency planning should be considered a future agenda item. The Deputy Chief executive, highlighted that an emergency planning briefing for Councillors was due to take place which would highlight the responsibilities of the Council when it comes to emergency planning.

The Corporate Manager for Public Health, Regulation and Housing highlighted that the housing team worked during the storm to help those affected.

In addition, it was raised that communication needed to be improved so the Council could be better prepared for next time. There was also encouragement to work closely with the Environment Agency on future emergency planning.

Note: * Notification of key Decisions previously circulated.

(The meeting ended at 6.30 pm)

CHAIRMAN

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MDDC CABINET MEETING 19th SEPTEMBER 2023

QUESTIONS: PAUL ELSTONE - A local resident and council taxpayer.

Question 1

My first question relates to the Minutes of the last meeting and the promise to provide written answers to my questions. These have not been provided. Can the Leader tell me what has happened to them?

Question answered at the meeting – the response has been published.

My remaining questions relate to Agenda Item 5 – Medium Term Financial Term Update and associated papers.

Question 2

There appears to be no reference to the windfall £3 million leisure services VAT refund in the financial forecast. Has this substantial VAT refund already been incorporated in the forecasting figures or is this still to be done ?

The MTFP is a forward looking 5 year financial projection looking at the Council's position from 2024/25 onwards. The VAT refund was accounted for within the 2022/23 financial year.

Question 3

There is no clear evidence that the 3 Rivers bad debt has been included in any short or medium term financial forecasting. Bad debt currently anticipated at more than £7 million and increasing by an estimated £125,000 per month, this when interest and overhead liabilities are factored in. Has the 3 Rivers bad debt provision been made and if so where is it shown in the papers ?

Impairment of loans have already been made in the Council's accounts in the financial years 2020/21 and 2022/23. Further revisions to these amounts will be made during 2023/24 now key decisions have been made relating to the future of the company. It is currently anticipated that this review will be undertaken in the current financial year and therefore no provision is included in the forward looking MTFP report.

Question 4

The Cabinet Member for Finance is reported as saying Quote: *"that no money from Council Tax has been used to support the St Georges Court build"*. Unquote:

The S151 Officer has been reported as saying that no loans were taken out to fund 3 Rivers. Therefore who funded the St Georges Court build and who holds the bad debt liability ?

Councils receive their funding from a number of sources, not just from Council Tax. This includes: Government funding and grants, retained business rates, income from fees/charges, etc.

All Council funding of 3Rivers has come from temporary cash flow treasury lending. Now the Council has resolved to soft close the company, any associated bad debt will ultimately be a liability of the Council and decisions will need to be taken as to how this is ultimately funded.

Question 5

If Council Tax Payers have not funded St Georges Court then in my business environment and by implication then the same Council Tax Payers have no liabilities for the substantial bad debt. That there should be no reduction in the MDDC Council services resulting. If this statement is not correct can a full explanation be given ?

During 2023/24 the Council will need to make a number of financial decisions on how to fund the estimated losses from its wholly owned property development company. This will be affected by the final quantum of the loss once all of the current assets are disposed of and all potential liabilities are crystallised.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **CABINET** held on 17 October 2023 at 5.15 pm

Present

Councillors

L Taylor (Leader)
J Buczkowski, S J Clist, J Lock, S Keable, D Wulff and
J Wright

Apology

Councillor

N Bradshaw

Also Present

Councillors

G Czapiewski, D Broom, E Buczkowski, F J Colthorpe,
R Gilmour, L Knight and S Robinson

Also Present

Online

A Cuddy, G DuChesne, A Glover, F Letch MBE and N
Letch

Present

Officers

Stephen Walford (Chief Executive), Andrew Jarrett (Deputy
Chief Executive (S151)), Maria De Leiburne (District
Solicitor and Monitoring Officer), Paul Deal (Corporate
Manager for Finance, Property and Climate Change),
Simon Newcombe (Corporate Manager for Public Health,
Regulation and Housing), Dean Emery (Corporate
Manager for Revenues, Benefits and Recovery), Lisa
Lewis (Corporate Manager for Business Transformation
and Customer Engagement), Angie Howell (Democratic
Services Officer) and Sarah Lees (Democratic Services
Officer)

52. Apologies

Apologies were received from Cllr N Bradshaw.

53. Public Question Time

Mr Nick Quinn

Regarding Agenda Item 8 – Medium Term Financial Update.

Appendix 1 shows a Savings Options Summary Table, listing various areas and the potential savings which it is believed can be made.

I have questions about some of the items shown on the table:

Q1: Corporate Management shows no savings at all, but Staffing shows a Total Saving of £779k. Why? Is it easier to get rid of Workers than Managers?

Answer: Staffing savings is a generic savings figure and therefore aggregates all Council services including Corporate Management. At item 7 this evening we are actually looking at the makeup of the senior officer structure.

Q2: The Pannier Market shows a Budget of £79k but Total Savings of £100k. How can more money be saved than is budgeted?

Answer: The budget is net of income, plans are being considered to move this from a net cost to a net income generator for the Council.

Q3: Licensing is shown as a statutory function. How can a budget of £24k be reduced to just £4k and still provide the required Statutory service?

Answer: Again, the budget is net of income. The specific savings options are shown in Appendix 2, rows 15 and 17.

Q4: On the Staffing line, there are no figures in the Budget or the Percentage change columns. Why is this?

Answer: The budgets are included within the specific service lines above.

Q5: If Staffing, and possibly Services, are being reduced - why does the Council still need the same amount of Management?

Answer: Item number 7 this evening we are specifically looking at the make-up of the senior officer structure.

Mr Paul Elstone

My questions relate to Agenda Item 8 – Medium Term Financial Plan Update and associated financials.

Question 1

Appendix 1 - Savings Options Summary Lists Parks and Open Spaces, shows a £50K saving. This amount it is believed to be the money required to keep both the Westexe, Tiverton, and Crediton paddling pools open and maintained over a year, plus perhaps the children's play equipment. Additionally, the Pannier Market is showing a saving of £100K.

Appendix 2 Headline Savings Options Round 1: Row 5 says and specifically against these budget items:

"Therefore, as indicated previously some services will cease" and "Reputational risk are likely".

Will the Council Leader provide categorical assurance, this evening, that he fully supports both the Westexe Tiverton and Crediton Paddling pools being fully open for use next summer and in the 2024/25 budget year and that he is not in agreement with officer recommendations?

Question 2

Will the Council Leader also state that he is against the Tiverton Pannier Market being impacted irrespective of any Tiverton Town Council Funding decision?

Question 3

It has been stated, in answer to a previous question, that all 3 Rivers funding came from temporary cash flow treasury lending.

How precisely is this Treasury Account funded?

Question 4

The previous 3 Rivers loan impairment of £790,000 was required to be written off over a 5-year period. This despite the S151 Officer initially saying it was not necessarily a loss but prudent accounting.

How long will the additional £4.5 million 3 Rivers loan impairment take to be written off?

Question 5

When setting the budget for 2023/24 there was a requirement to draw down General Fund reserves by around £500K. This was justified by officers stating there was a requirement to compensate for lost interest payments due from 3 Rivers - given the then Full Council's decision not to approve future new developments.

Can it be explained, and in simple terms, that while the 3 Rivers receive loans from a Treasury Account, the interest is paid to support the General Fund.

Surely interest should be paid back to loan source account. If not, why not?

The Leader stated that a written response would be provided to the questioner following the meeting as he had not provided questions in advance. The Clerk would notify him when the answers had been provided.

Mr Barry Warren

My first questions relate to Agenda Item 7.

When I became Leader of the Council at the end of February 2023 a recruitment process had been commenced to replace the retiring Director. As the result of representations made to me I had discussions with the Chief Executive and put forward the idea of potential savings for the budget by not replacing the Director. Some of the savings could be used to reward other officers who had taken on more responsibilities. He was insistent that the post had to be filled and said he took this position as the result of advice obtained from the Local Government Association and South West Councils. I asked to see that advice but was never shown it. The Chief Executive advised Elected Members that he and I had agreed not to fill the post for an interim period before further review.

Is this current report the end result of that period of review?

Answer: Yes

1. The recommendation now is not to replace the retired Director and delete that post. The report states that advice has been sought from the Local Government Association and South West Councils who support the recommendation. This appears to be a complete 'U' turn from what I was told the previous external advice had been. What has changed to bring forward this different advice?

Answer: Time and context.

The advice had previously been given relating to that of the council's housing function, specifically in light of emerging changes to the regulatory framework arising from the need for quality assurance in social housing. In the time since Mr Warren was a councillor, things have moved on and it is now clear that housing functions can sit appropriately in the structure without the need to create a Director level post. Recent advice confirms this.

In the first paragraph of the report it states that this is being done to achieve financial savings. Under Financial Implications it states '*when implemented it will deliver financial savings as compared to the currently-budgeted structure.*

- a) If this recommendation is adopted when will it be implemented and what savings will be made?

Answer: As the report states; as soon as possible, and unknown at this point, hence making it clear that savings will be reported in the usual way.

- b) There has not been a Director in place since the previous one retired and so in simple terms what financial savings have been made to date?

Answer: Circa £25k.

2. If one looks at Agenda Item 8, Appendix 1 on page 81 of the papers on the top line against Corporate Management the annual budget for 2023/24 is shown as £1,338,000. The Total Savings are shown as Zero.

One report says there will be savings and another shows there will be none. Are Cabinet sure of what they are going to be agreeing to?

Answer: For Cabinet to consider during debate.

54. **Declarations of Interest under the Code of Conduct**

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

55. **Minutes of the Previous Meeting**

The minutes of the previous meeting held on 19 September 2023, were approved as a correct record and **SIGNED** by the Leader.

56. **Mid Devon Housing Damp and Mould Policy (00:22:00)**

Cabinet had before it a report * which set out how Mid Devon Housing would address issues of damp, mould and condensation within the Council's tenanted and leasehold housing stock.

This included how the Council intended to comply with its legal responsibilities and with the Housing Ombudsman's recommendations in 'The Spotlight on Damp and Mould' report as well as its wider health, safety and wellbeing requirements towards its tenants under the statutory Homes Standard published by the Regulator of Social Housing and the new Social Housing Regulation Act 2023.

Consideration was given to:

- How incredibly disappointing it was that it had taken the death of a child to bring this matter to the fore nationally.
- The responsibility of the Council to provide safe and healthy homes.
- A tenant/s 'lifestyle' being one of the causes of condensation and what the Council could do to help in terms of providing clear and helpful advice.
- In certain circumstances reasonable adjustments could be made such as triple venting, opening a window after a shower, using a kettle rather than heating up pans of water or regulating the temperature better by turning the thermostat down rather than completely turning it off and then up to maximum the next time it is switched on.
- Damp and mould rarely existed as a result of one particular issue, it was more complex than that. The cost of living crisis as well as mental health issues could also be having an impact.
- Advice packs to tenants had been very welcome and there was an ongoing dialogue regarding education and feedback.
- Many issues were picked up by Neighbourhood Officers.
- There were more issues with the older housing stock and this was a consideration when reaching a decision about whether or not it was cost effective to repair a property or replace the property altogether.
- The vulnerabilities of residents were taken into account. New tenants were invited to join a 'Getting to know you' project with housing officers making the most of every contact and opportunity.
- Further central Government legislation was due which would provide more detail on how private landlords and Registered Social Housing landlords should deal with damp and mould, including any complaints arising as a result of it. It was not clear whether there would be any funding to support local authorities with this issue but Government was being pressed on the financial challenges this issue presented.
- Neighbourhood walkabouts with Ward members were proving to be very helpful to all parties involved.

RECOMMENDED to Full Council that the new Damp and Mould Policy and Equality Impact Assessment contained in Annexes A and B be adopted subject to the inclusion of the following paragraph:

To ensure that treatment has been effective, and damp and mould has not reappeared, any improvement work will be accompanied by a follow up visit to the property. MDH will allow at least 6 weeks after the initial treatment to revisit the dwelling. Any issues reported by tenants in the meantime will be acted upon promptly. If damp and mould have reappeared, further investigation and intervention will be pursued.

(Proposed by Cllr S Clist and seconded by Cllr S Keable)

Reason for the decision:

The council has statutory responsibilities under the Landlord and Tenant Act 1985, the Decent Homes Standard, the Defective Premises Act and the Housing Health and Safety Rating System (HHSRS) to ensure that properties are maintained, meet the Decent Homes Standard and that, where appropriate, properties are assessed

and steps taken with a view to avoiding or minimising the risk of recurrence of damp and mould.

Note: * Report previously circulated.

57. Recharges Policy (00:43:00)

The Cabinet had before it a report * stating that Mid Devon Housing (MDH), as a social landlord, incurred costs that arose from works and other activities which were normally the responsibility of the tenant, including repair of deliberate damage, pest control and property cleans and clearances. The MDH Recharges Policy sought to define the circumstances where such recharges occurred and make clear MDH's intention to recover such costs.

Consideration was given to:

- Whether there was a link between the age of a property and the length of the void period. It was explained that often there was a link.
- Sometimes there was deliberate damage to a property which required repair but which came at a cost.
- Other costs incurred could include missed appointments, missed inspections including those related to gas safety and tenants who just disappeared with no forwarding address.
- It was a challenging area but people's vulnerabilities were always taken into account.

RESOLVED that the updated MDH Recharges Policy and Equality Impact Assessment contained in Annexes A and B respectively be approved.

(Proposed by Cllr S Clist and seconded by Cllr J Lock)

Reason for the decision:

The Council is (and must be) a registered provider of social housing and therefore is required to comply with the regulatory framework and consumer standards operated by the Regulator for Social Housing (RSH).

As such, it is necessary to ensure that the Recharges Policy addresses all the relevant legal obligations the Council has as a landlord for the housing estate. Consequently, the policy has been produced to ensure MDH has a clear basis for compliance with the relevant statutory consumer standard, which is the Home Standard in this case.

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

58. Makeup of the senior officer structure in light of posts held vacant (01:06:00)

The Cabinet had before it a report * considering the makeup of the senior officer structure.

Consideration was given to:

- The fact that the Council had already been operating without the post in question since May 2023 under interim arrangements.
- There were no plans to reduce the amount of administrative support.
- The advice which had been sought from the Local Government Association had informed the proposal.
- The process would be reviewed by the regular Establishment reports presented to the Scrutiny Committee and the Cabinet.
- There were no undue concerns from the other members of the leadership team.

RESOLVED that:

- a. The senior officer (leadership team) structure be revised to delete one post, with responsibilities realigned across remaining posts as appropriate.
- b. The new leadership team structure be implemented as soon as possible, subject to consultation with those employees affected, and in accordance with the relevant national terms and conditions for local authority senior officers.

(Proposed by the Leader)

Reason for the report:

It is considered that the council can continue to meet its legal obligations with this reduced senior officer structure. The legal implications resulting from the decision will relate to the appropriateness of implementing the changes in accordance with relevant employment law. This will be done in accordance with MDDC policy and with advice from SW Councils as required in order to minimise any risk.

Note: * Report previously circulated.

59. 2024/25 – 2028/29 Medium Term Financial Plan Update (01:17:00)

The Cabinet had before it a report * which updated Member's on the Medium Term Financial Plan (MTFP) which covered the period 2024/25 to 2028/29 and which identified potential savings options for consideration / approval.

The following was brought to Members' attention:

- There was an estimated budget shortfall of £2.1m for 2024/2025 rising to £5.2m by 2028/2029, however there was a legal obligation to balance the budget.
- The three levels of risk in relation to the proposed savings was explained.
- The detail of proposed savings would be discussed by the Policy Development Groups, the Cabinet were being asked to accept the 'principles' of this approach and provide a corporate steer.
- All Members were encouraged to engage in the process.
- Further significant savings would need to be identified with some decisions being very difficult to make.
- Members would need to receive some advice as to what the proposed savings would mean in reality for service provision.

- It was hoped that the Government's Funding Settlement would be known by Christmas providing more financial certainty.
- Opportunities for partnership working and the sharing of services with other authorities continued to be explored.
- Conversations were also being had with Town and Parish councils.
- Decisions in relation to discretionary and non-discretionary services would need to be considered as part of closing the budget gap.

RESOLVED that:

- a) The updated MTFP for the General Fund covering the years 2024/25 to 2028/29 be **NOTED**.
- b) The savings options within Appendix 2, taking into account the recommendations from the Policy Development Groups, be approved.
- c) The Policy Development Groups be requested to identify further savings options and recommend back to Cabinet for approval.

(Proposed by Cllr J Buczkowski and seconded by Cllr S Clist)

Reason for the report:

The current budget for the General Fund shows a potential deficit of £765k, with an increasing funding deficit projected in future years. This highlights the need to take steps to plan for further reductions to the Council's ongoing expenditure levels.

Note: * Report previously circulated.

60. **Notification of Key Decisions (01:40:00)**

The Cabinet had before it, and **NOTED**, the notification of key Decisions *.

A suggestion was made that when the Cabinet were required to consider the Crediton Masterplan, consideration be given to holding the meeting in Crediton.

Note: * Notification of Key Decisions previously circulated.

(The meeting ended at 7.00 pm)

CHAIRMAN

Report for: Homes Policy Development Group

Date of Meeting:	26 th September 2023
Subject:	MID DEVON HOUSING DAMP AND MOULD POLICY
Cabinet Member:	Cllr Simon Clist Cabinet Member for Housing and Property
Responsible Officer:	Simon Newcombe - Corporate Manager for Public Health, Regulation and Housing
Exempt:	No which are Exempt from publication under paragraph 3, Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information)
Wards Affected:	All Wards
Enclosures:	Annex A – Damp and Mould Policy Annex B – Damp and Mould Policy Equality Impact Assessment (EIA)

Section 1 – Summary and Recommendation

This policy sets out how Mid Devon Housing will address issues of damp, mould and condensation within the council’s tenanted and leasehold housing stock.

This includes how the Council intends to comply with its legal responsibilities and with the Housing Ombudsman’s recommendations in ‘The Spotlight on Damp and Mould’ report and well as its wider health, safety and wellbeing requirements towards our tenants under the statutory Homes Standard published by the Regulator of Social Housing and the new Social Housing Regulation Act 2023.

Recommendation:

That the PDG recommends that Cabinet recommends to Council that the MDH Damp and Mould Policy and Equality Impact Assessment contained in Annexes A and B be adopted.

Section 2 – Report

1 Introduction

Current regulation and performance

1.1 Under the Homes Standard, the Regulator of Social Housing (RSH) requires all registered providers to:

- provide a cost-effective repairs and maintenance service to homes and communal areas that responds to the needs of, and offers choices to, tenants, and has the objective of completing repairs and improvements right first time;
- meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.

1.2 The Social Housing (Regulation) Act received Royal Assent in 2023 and has now been enacted into law, the Act has been taken into account in the creation of the Policy. This will impact the regulatory framework for social housing and introduces a new proactive, consumer regulation regime focussed on meeting the needs of tenants. One aim of the legislation and regime is to ensure that providers of social housing, such as the Council, keep its properties and estates safe and clean.

1.3 These new standards are there to ensure people feel safe and secure in their homes, can get problems fixed before they spiral out of control, and see exactly how well their landlord is performing giving tenants a stronger voice. The Regulations take account of the aims and ambitions of the White Paper and several are particularly relevant to the aims of this policy:

- To be safe in your home (Chapter 1)
- To know how your landlord is performing (Chapter 2)
- To have your complaints dealt with promptly and fairly (Chapter 3)
- To have a good quality home and neighbourhood to live in (Chapter 6)

1.4 As part of the new consumer regulation regime, from April 2023, the RSH has already introduced a series of 22 mandatory Tenant Satisfaction Measures (TSMs) creating a new system for assessing how well social housing landlords in England are doing at providing good quality homes and services. These measure include those applicable directly to building safety as well as those

based on tenant perception surveys setting out tenants views on our performance which will include responsible neighbourhood management.

- 1.5 The TSM measures under the Homes Standard include:
- TP02 – Satisfaction with Repairs
 - TP04 – Satisfaction that the home is well maintained
 - TP05 – Satisfaction that the home is safe
 - TP10 – Satisfaction that the landlord keeps communal areas clean and well maintained
- 1.6 In addition to the Social Housing Regulation Act the government published new damp and mould guidance on 8th September 2023 for landlords in the wake of two-year-old Awaab Ishak’s death. The guidance provides an overview of what landlords should consider when addressing reports of damp and mould and gives examples of best practice to help reduce health risks to tenants and potential damage to property.
- 1.7 Officers have considered the guidance issued and are confident that the MDH Damp and Mould Policy fully aligns with the principles set out by the government but lacked detail on follow up visits when improvement works had taken place. In order to address this Members are being asked to approve an additional section to the draft policy which will provide transparency on follow up visits.

Wider context and renewed focus

- 1.6 Damp and mould in homes is prevalent across the country, especially in older stock and poorly maintained or designed properties. Homes that retain moisture, residents who cannot afford to turn on their heating, or who do not have outside space to dry laundry, and failures of all landlords to address repairs in a timely fashion have combined to blight homes with damp and mould.
- 1.7 The sector has been actively aware of these issues for some time and Mid Devon Housing have taken a proactive stance in tackling the issue. This preceded heightened focus on the issue following the publication of the Housing Ombudsman’s ‘Spotlight Report on damp and mould’ report in October 2021 in addition to a Coroner’s report into the death of Awaab Ishak in November 2022 which set out the many failings that directly contributed to this only reinforced the urgency with which the sector must respond, whether as a social housing provider or a private landlord.
- 1.8 All social landlords have an essential role to play here; in ensuring homes are kept in a good state of repair, in listening to tenants and responding quickly to any problems they raise, and in creating a culture where everyone cares about all residents’ living conditions.

- 1.9 As such a landlord, the Council has a duty to ensure that its housing stock is maintained at least in accordance with the Decent Homes Standard, which includes taking steps to assess properties for damp and mould problems and, where appropriate, take steps to avoid or minimise the recurrence of damp and mould.
- 1.10 We know that residents living in homes with damp and mould are more likely to suffer from respiratory problems, and other conditions that impact the immune system.
- 1.11 The cost-of-living crisis and the impact of fuel poverty is leading to an increased number of residents not being able to either heat or ventilate their homes adequately, which can potentially exacerbate the problem.
- 1.12 In 2021, well before this high profile case, a review of Damp and Mould was started by our Technical Support and Repairs Manager. It was completed and published in early November 2022, unknowingly just ahead of the publication of the above Coroner's report and subsequent media attention. This review is available on the Mid Devon District Council website (see background papers).
- 1.13 The review considered sector current best practice including the recommendations of the Housing Ombudsman Spotlight Report and further set out that:
- MDH have no policy of awaiting claims outcomes before investigating and addressing any damp or mould
 - Are working towards better understanding of problem in our stock
 - We continue to develop improved approaches and have a zero-tolerance approach
 - The recommendations of the review should be incorporated into a dedicated Mid Devon Housing Damp and Mould Policy, developed in consultation with our tenants

Response and new regulation

- 1.14 The publication of Coroner's report on Awaab Ishak was seen as a defining moment for the housing sector. As such, the Department for Levelling Up, Housing & Communities (DLUHC) and Regulator for Social Housing (RSH) wrote to all Council's and all registered housing providers (RPs) respectively on 19 November for a written response. This sought formal assurance around our delivery of statutory duties and responsibilities with promises to take action against under-performing organisations.
- 1.15 In response to the above, a detailed, combined response drafted by MDH and Public Health services was provided by Chief Executive to DLUHC and RSH on

30 November 2022. This provided our comprehensive assurance in terms of Mid Devon as both a registered provider/social housing landlord (MDH) and a regulatory body for housing standards. The Damp and Mould Policy introduced by this report is relevant only to MDH and its landlord function.

1.16 At the same time that issues around damp and mould came into recent national focus, the Social Housing Regulation Bill (which became the Social Housing (Regulation) Act 2023) was passing through Parliament. During its journey through Parliament, it also became a 'patchwork' of reform, plugging various gaps and picking up on some wider topical issues including damp and mould. As such the following provisions were included in the final Act:

- Awaabs law - requiring the Secretary of State to set out new requirements for landlords to address hazards such as damp and mould within a fixed time period. Consultation is expected on this within the next 6 months, with a view to the requirements taking effect in summer 2024.
- The requirement for RPs to have a health and safety lead at executive level, in to be introduced by subsequent regulation, likely before April 2024. The details of this person must be notified to the RSH and be visible to tenants. This person will have overall accountability for the health and safety of MDH housing stock including fire safety, legionella, asbestos, gas and electrical safety, other hazards such as structural concerns, slips/trips and falls alongside damp and mould.

1.17 In response, MDH have developed this Damp and Mould Policy and will notifying the RSH and tenants of the appointed lead role once the regulations are in place. This has already been factored into the interim senior management structure of the Council and will be incorporated in the more permanent arrangements due to come before Cabinet in autumn 2023.

2 MDH Damp and Mould Policy

2.1 The overall aim of the policy is to provide a clear and transparent framework on the Council's approach to tackling damp and mould in accordance with our statutory obligations. This includes ensuring that our residents feel listened to and responded to effectively when experiencing issues of damp and mould.

2.2 Mid Devon Housing wants to take every reasonable action to identify, remedy and provide advice on damp and mould in Council homes in order to ensure a safe, health and comfortable environment for our residents, as well as to protect the fabric of our buildings.

2.3 Damp and mould is a complex issue requiring regular action from both housing providers and tenants. The nature of diagnosis of many damp and mould issues means that diagnosis is not always possible at first report.

- 2.4 To ensure that treatment has been effective, and damp and mould has not reappeared, any improvement work will be accompanied by a follow up visit to the property. MDH will allow at least 6 weeks after the initial treatment to revisit the dwelling. Any issues reported by tenants in the meantime will be acted upon promptly. If damp and mould have reappeared, further investigation and intervention will be pursued.

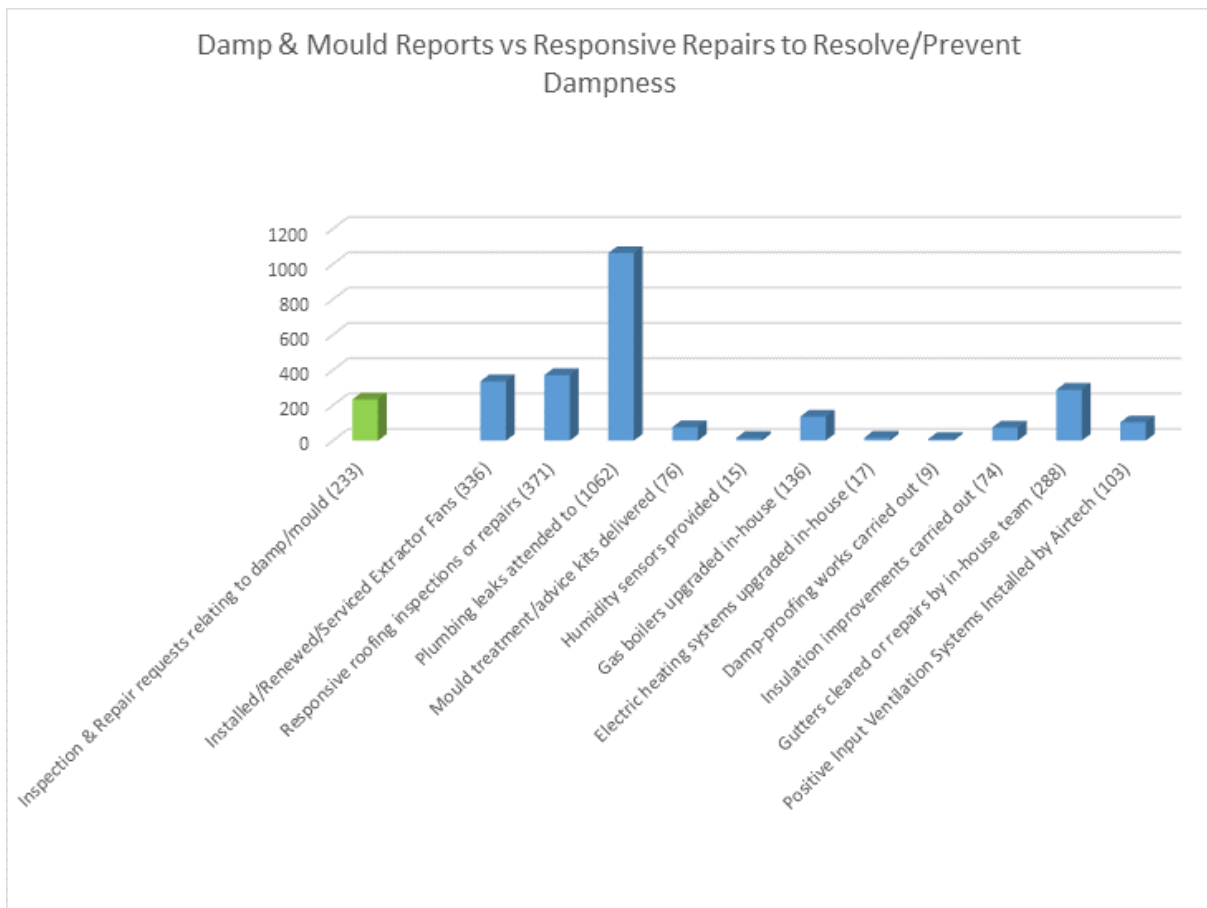
3 Historic Performance

- 3.1 In a pilot survey of the new Tenant Satisfaction Measures (TSM) survey undertaken at the end of 2022, the responses to relevant questions were as follows:

- TP02 – Satisfaction with Repairs – 69%
- TP04 – Satisfaction that the home is well maintained – 65%
- TP05 – Satisfaction that the home is safe – 71%
- TP10 – Satisfaction that the landlord keeps communal areas clean and well maintained – 53%

- 3.2 A damp and mould survey project commenced in March 2023 with a view to contacting as many tenants as possible, in order to gain a better knowledge of the true prevalence of damp and mould across MDH stock. These surveys focussed on the properties most likely to be suffering from damp and mould, gradually moving on to the rest of the housing stock. The survey also explored data from Orchard Housing and repairs reports. As of 31 May 2023, the results of the survey are as follows:

- At least 5% of MDH tenants presently have damp or mould in their homes at any one time.
- 14% of all homes have had some sort of damp or mould in the past 2 years.
- 86% of all homes have reported no damp or mould in the past 2 years.
- Of the surveyed properties/tenants, where there had been damp/mould in the past, 42% no longer experience damp/mould, whilst 58% said that they did presently have damp/mould issues.
- Between 1 April 2022 and 29 March 2023, there were 233 inspection and repair requests relating to damp and/or mould. In the same period, the repairs service carried out 2487 actions aimed to reduce damp and mould. This shows that for every one damp, mould and/or leak report, there are nearly 10 actions to resolve or prevent it. A further breakdown is included in the table below:



4 Consultation

4.1 During the development of the policy, MDH ran a damp and mould forum on its Facebook site which sought feedback on the experiences of tenants alongside their views and ideas on tackling the issue. Responses received formed a key part in the development of the policy itself.

4.2 A second round of formal tenant consultation took place between 5th June and 17th July 2023 on the final draft policy and no additional responses were received from tenants.

5 Policy approach

5.1 The policy recognises that:

- Damp, condensation and mould can and will occur
- We have a mixed stock of homes of varying age and design, built to different building regulations and energy efficiency requirements over the past century
- An inherent damp climate/wide seasonal temperature range exacerbated by climate change together with varied use and occupation

leads to homes with hugely variable energy and ventilation efficiency and demand

- Persistent mould in several rooms and/or key living spaces is the main concern – long term environmental exposure = highest risk of health impacts
- Whilst tenant behaviours are important its not a blame situation – MDH must listen, advise and understand underlying factors (for example; knowledge, lack of drying areas, overcrowding, health conditions, cost-of-living and fuel poverty/cost-of-living pressures)
- Prompt / effective treatment of leaks is important – fix source and de-humidify
- Structural or ventilation factors often also relevant
- Persistent cases - whatever the tenure - will get the attention required to understand and act on the complex mix of issues creating the problem

5.2 Consequently, the policy sets out an intensive housing management approach to damp and mould as follows:

- Targeted reactive and proactive inspections
- Follow-up treatments packs and tenant advice leaflet/checks for primary language and understanding
- Where no structural defects are found but issues persist beyond initial treatment then properties are referred for a specialist survey; humidity monitoring, assess mould, wall moisture and dew points
- Specialist survey recommendations are followed up and implemented including additional or improved ventilation
- Ongoing review of best-practice procedures and treatments
- Additional diagnostic tools – mini hygrometer to help tenants monitor and understand cause and specialist thermal imaging for problematic black mould
- Setting up of a focus group of staff, tenants and Councillors to look at issues relating to damp and mould
- Overall, adopting a zero-tolerance, joined-up approach where we proactively seek to understand causes, concerns and risks in order to take action

5.3 In addition to building new homes with ultra-high energy efficiency which meet or exceed the latest standards, our development programme has a focus on also replacing end-of-life poor quality Cornish and Woolaway units. This will be accelerated where possible through successful applications for Affordable Homes Programme (AHP) grant from Homes England where this grant scheme has recently be updated to provide funding for all new social housing including homes replacing existing units under a regeneration approach.

5.4 Previously only net additional new homes were eligible for AHP grant and the current scheme runs until 2026.

5.5 There is also a programme of modernisation across the remaining, existing MDH stock which will mitigate and reduce damp and mould risk over time:

- £ multi-million investment in rolling 5-yr modernisation and decarbonisation programme (£3m roofs and insulation, £4m decent homes, £2m windows, £1.9m heating, £1.2m renewables)
- 100% of stock meeting Decent Homes Standard; new heating and ventilation systems, modern glazing with trickle ventilation, improved insulation
- Reduce running costs for tenants and improve energy efficiency

6 Recommendation

6.1 The following recommendation is made:

1. That the PDG recommends that Cabinet recommends to Council that the MDH Damp and Mould Policy and Equality Impact Assessment contained in Annexes A and B be adopted.

Financial Implications

This report on its own does not give rise to any financial implication but implementation of the activities set out in the policy have cost implications which are already considered in the current 5-year Medium-Term Financial Plan for the Housing Revenue Account (2023/24 – 2027/28) and capital programme.

Consequently, these will either be met from existing resources and funding or require separate business cases and appropriate approval to progress.

Legal Implications

The council has statutory responsibilities under the Landlord and Tenant Act 1985, the Decent Homes Standard, the Defective Premises Act and the Housing Health and Safety Rating System (HHSRS) to ensure that properties are maintained, meet the Decent Homes Standard and that, where appropriate, properties are assessed and steps taken with a view to avoiding or minimising the risk of recurrence of damp and mould.

Further information is set out in the body of the report, notably in Section 1.

Risk Assessment

Failure to have adequate arrangements in place for addressing damp and mould could result in the Council failing to meet its statutory and contractual obligations

Depending on the specific circumstances and the causes of damp or mould, where the council fails to comply with its statutory or contractual obligations, the tenant or lessee may have a right to take legal action for the damp and mould problems to be remedied and also possibly to claim compensation.

The Council received 31 legal disrepair claims between January 2019 and May 2023, of which, the majority include reference to damp and mould.

Impact on Climate Change

None directly relevant to this report.

Equalities Impact Assessment

Mid Devon Housing collects data on the diversity of tenants and endeavours to tailor services to meet the needs of all tenants. Our housing estates must be accessible to those with disabilities and we have in place a regular schedule of inspections to ensure that all defects are identified and rectified as soon as possible. Information provided by MDH is available in alternative formats, upon request, in order to ensure that all those living on our estates understand the rights and responsibilities of the Council as a landlord, and tenants and other residents, individually.

The Equalities Impact Assessment is attached to this report in Annex B.

Relationship to Corporate Plan

A stated aim of the Council is to seek opportunities to address public health issues and disparities to improve the health and wellbeing of everyone in Mid Devon

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 12 September 2023

Statutory Officer: Maria De Leiburne

Agreed on behalf of the Monitoring Officer

Date: 12 September 2023

Chief Officer: Simon Newcombe

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

Date: 24 August 2023

Performance and risk: Dr Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 01/09/2023

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing or Mike Lowman, Operations Lead for Building Services.

Email: snewcombe@middevon.gov.uk / mLOWMAN@middevon.gov.uk

Telephone: 01884 255255

Background papers:

Ombudsman 'Spotlight on Damp and Mould' report – October 2021, which is available via [Housing Ombudsman Spotlight report on damp and mould \(housing-ombudsman.org.uk\)](https://www.housing-ombudsman.org.uk)

Mid Devon Housing Damp and Mould Review November 2021

<https://www.middevon.gov.uk/media/354391/damp-mould-review-2022.pdf>

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DAMP AND MOULD POLICY

2023

1	Introduction	3
2	Legal Framework and Context	4
3	Policy Aims and Objectives	5
4	Definitions	6
5	Methods of Reporting	7
6	Diagnostic scripting	7
7	Investigations and Repairs	7
8	Process of Elimination for Complex Cases	8
9	Damp and Mould Inspections	9
10	Technology and Monitoring	9
11	Improvements	10
12	Landlord Responsibilities	10
13	Tenant Responsibilities	11
14	Education and Improvement	12
15	Exclusions and Limitations	12
16	Complaints and Feedback	13
17	Review and Version Control	14

1 Introduction

- 1.1 Mid Devon Housing (MDH) wants to take every reasonable action to identify, remedy and provide advice on damp and mould in Council homes in order to ensure a safe, health and comfortable environment for our residents, as well as to protect the fabric of our buildings.
- 1.2 Damp and mould is a complex issue requiring regular action from both housing provider and tenants. The nature of diagnosis of many damp and mould issues means that diagnosis is not always possible at first report.
- 1.3 This policy statement outlines MDH's approach to delivering a fit for purpose damp and mould service that will:
 - Provide clarity on the ways in which tenants can report such issues
 - Provide staff with the ability to understand what is going on by giving them scripts to aid diagnosis
 - Ensure that tenants are treated in a fair and consistent way
 - Comply with statutory regulatory, legislative requirements, contractual requirements and good practice
 - Focus on working in partnership with tenants ensuring that a safe and healthy internal environment is possible
 - Allow MDH to undertake effective investigations and implement all reasonable remedial repair solutions and improvements to make eradication of damp and mould possible
 - Ensure that tenants have access to and/or are provided with comprehensive advice and guidance on managing and controlling damp, mould and condensation
 - Maximise the available budgets and ensure that they are used effectively and efficiently to deal with damp, mould and condensation problems
 - Ensure that the fabric of our property is protected from deterioration and damage resulting from damp, mould and condensation
 - Focus on working in partnership with tenants ensuring that a safe and healthy internal environment is reasonably possible to achieve
- 1.4 We will make reasonable attempts to access the property to inspect and carry out the works. All logged repairs must have evidence of at least three attempts to contact the tenant. Written communication must then be provided to the tenant asking them to contact us to organise a new repair and record each attempt on our tenant database.

- 1.5 We will implement data collection and insight measures to assist with informing us of the possible risks to our properties so that we can undertake proactive measures to eliminate damp, mould and condensation before it becomes a problem for our customers.

2 Legal Framework and Context

- 2.1 Under the Homes Standard, The Regulator of Social Housing (RSH) requires all registered providers to provide a cost-effective repairs and maintenance service to homes and communal areas. This service should respond to the needs of, and offers choices to, tenants, and have the objective of completing repairs and improvements right first time and meet all applicable statutory requirements that provide for the health and safety of the occupants in their homes.
- 2.2 Social Housing (Regulation) Act has received Royal Assent, meaning the bill has now been enacted into law. This will impact the regulatory framework for social housing and introduce a new proactive, consumer regulation regime focussed on meeting the needs of tenants. One aim of the legislation and regime is to ensure that providers of social housing, such as the Council, keep its properties and estates safe and clean.
- 2.3 These new standards are there to ensure tenants feel safe and secure in their homes, can get problems fixed before they spiral out of control, and can see exactly how well their landlord is performing giving tenants a stronger voice. The Regulations take account of the aims and ambitions of the White Paper and several are particularly relevant to the aims of this policy:
 - To be safe in your home (Chapter 1)
 - To know how your landlord is performing (Chapter 2)
 - To have your complaints deal with promptly and fairly (Chapter 3)
 - To have a good quality home and neighbourhood to live in (Chapter 6)
- 2.4 From April 2023, the RSH introduced a series of 22 mandatory Tenant Satisfaction Measures (TSMs) creating a new system for assessing how well social housing landlords in England are doing at providing good quality homes and services. These measures include those applicable directly to building safety as well as those based on tenant perception surveys setting out tenants' views on our performance which includes responsible neighbourhood management.

2.5 The TSM measures under the Homes Standard relevant to this policy include:

- TP02 – Satisfaction with Repairs
- TP04 – Satisfaction that the home is well maintained
- TP05 – Satisfaction that the home is safe
- TP10 – Satisfaction that the landlord keeps communal areas clean and well maintained

2.6 The scope of this policy is covered by legislation including the following:

- Housing Act 1985.
- Homes (Fitness for Human Habitation) Act 2018.
- Landlord and Tenant Act 1985, Section 11 - Repairs and Maintenance.
- Housing Act 2004 - Housing Health and Safety Rating.
- Decent Homes Standards.

3 Policy Aims and Objectives

Aims

3.1 This policy explains how we will deal effectively with damp and mould in Council homes and communal areas. This includes MDH properties that are tenanted.

3.2 This policy covers the following items:

- Methods of reporting
- Diagnostic scripting
- Investigations and repairs
- Process of elimination for complex cases
- Damp and mould inspections
- Technology and monitoring
- Improvements
- Landlord responsibilities
- Tenant responsibilities
- Education and improvement

Objective

3.3 This policy has been written to ensure that wherever possible, residents are not adversely affected by the causes of damp and mould and drives forward an agenda of proactive action to tackle/manage the causes of damp and mould.

4 Definitions

4.1 For the purposes of this policy, the following definitions apply:

- **Tenant** – means any person that has a tenancy agreement with the Council.
- **Leaseholder** - means any person or organisation that has a domestic property lease agreement with the Council.
- **Council Property** – means any land/property owned by the Council either as the freehold or leasehold owner.
- **Rising damp** - Characterised by a tide mark on ground floor walls, often accompanied by salt deposits ('efflorescence'), rising damp is caused by the movement of moisture from the ground, rising up through the structure of the building through capillary action.
- **Penetrating damp** - Water penetrating the external structure of the building causing damp, rot and damage to internal surfaces and structure. For example roof leaks, gutter leaks, water ingress through poor pointing or render, bridged damp proof courses or storm water flooding.
- **Plumbing leaks** – leaks from any parts of the plumbing, heating or drainage system, above ground or underground.
- **Condensation** –occurs when an imbalance of heating, moisture and ventilation leads to air borne moisture condensing and settling on cooler surfaces as water.
- **As Built Defect** –is a building defect which met building regulations at the time of construction, but would fail to meet modern building standards today. Common examples include: single skin walls, rat-trap bond walls, cold bridge details, ground levels within 150mm of damp proof course, lack of damp proof course or lack of damp proof membrane.
- **Humidity** (relative humidity (RH)) - is a measure of the water vapour content of air, expressed as a percentage (%RH). RH is strongly proportional to temperature and highly sensitive to temperature changes.
- **Excess humidity** – for the purpose of management of damp and mould, excess humidity is where RH indoors exceeds, or is likely to exceed 70%. Indoor humidity at this level is harmful to respiratory health, and can lead to the formation of mould in homes.
- **Moisture producing room / wet room** – a room in which moisture is created through use of appliances, for example kitchens, bathrooms and shower rooms.
- **Habitable room** –a room that is utilised for dwelling purposes e.g. living, eating, sleeping. MDH has a responsibility to ensure that habitable rooms are capable of being free from damp and mould. Rooms not forming part of the habitable property include garages, external stores, sheds, former coal stores and external WCs. These rooms are often unheated and uninsulated, so can be prone to condensation mould if not well ventilated.

5 Methods of Reporting

- 5.1 Tenants and leaseholders can report repairs by phone, email, letter, in person, on our website or through our social media pages.
- 5.2 Damp and mould issues may also be identified by visiting professionals and housing officers, in which case, this will be reported back to the repairs service.

6 Diagnostic scripting

- 6.1 All repairs coming through the Council's call centre will be triaged using a diagnostic script. This script has been created from decades of specialist officer knowledge, industry best practice and tenant feedback. The script is designed to determine the most likely cause or causes of damp or mould, and to arrange for repairs or advice to combat this. It may be necessary for the script to be used more than once, as symptoms improve and change.
- 6.2 It is important that tenants are honest and accurate when reporting repairs, in order that the scripting is appropriate.

7 Investigations and Repairs

- 7.1 The Council shall investigate to determine the cause of damp, mould and condensation and carry out remedial repairs and actions in accordance with the tenancy agreement, including:
 - Undertaking work for the treatment of penetrating dampness or mould on void properties before being let to new tenants.
 - Delivering effective solutions, based on dealing with the causes of the damp and mould not just the symptoms.
 - Promoting and providing general advice and guidance on how to manage damp and condensation.
 - Ensuring that the relevant staff are aware of and understand the delivery of the service that will meet the aims of this policy.
 - Ensuring that competent contractors are employed to carry out any works associated with damp and mould.
 - Informing the tenant of the findings of the investigations following the visit. This will include identifying the possible causes of damp and mould, recommending effective solutions, all necessary remedial works and the estimated timescales to complete the works.

- When satisfied that, in partnership with the tenant, all reasonable efforts in managing condensation damp has been carried out and this has not been successful, the Council will visit the property and investigate the matter further.
- Insulating Housing Revenue Account (HRA) properties in accordance with the Decent Homes Standard to help reduce the likelihood of condensation occurring.
- Maintaining a tenant's home to avoid penetrating dampness and to avoid rising damp in homes with a damp proof course or membrane by design, and for carrying out remedial action if these do occur.
- Undertaking reasonable improvement works required to assist in the management and control of condensation damp, e.g. the installation of mechanical extractor fans, air vents and repairing existing insulation.
- Carrying out remedial works where it is reasonable and practical to do so.
- Taking a pragmatic approach in finding appropriate solutions when having regard to the constraints of the existing building design and structure. In some cases this may mean that the Council will need to sell or dispose of the property.
- Making good any internal surfaces following any damage caused by remedial works.

8 Process of Elimination for Complex Cases

- 8.1 Occasionally, the cause of dampness is unclear and the diagnosis process can be complex. This is often the case where there is more than one possible cause of dampness. Extreme condensation can also impede the diagnosis process.
- 8.2 In some complex cases, a process of elimination may be required and a period of monitoring will be necessary after each element of remedial works is carried out. In the case of penetrating dampness, for example, it might take 1 month per inch of masonry to dry out.
- 8.3 High levels of internal humidity can impede the drying out process following remedial works, and as such, it is essential that tenants follow advice relating to reducing internal humidity and increasing ventilation during the periods following works.
- 8.4 It is important that this is clearly communicated to tenants, and that tenants are involved in the monitoring and re-reporting process.
- 8.5 Where symptoms of dampness persist after remedial works, it is important that tenants contact MDH to advise of this.

9 Damp and Mould Inspections

9.1 In cases where the causes of damp and mould are unclear, an inspection may be required. These inspections may be carried out by:

- A trade inspector – this may be someone with a specific carpentry, plumbing, masonry or electrical background, selected for their appropriate skillset to investigate possible contributory factors.
- A technical inspector – this will be an officer with a surveying or management background, who will endeavour to determine the cause or causes of dampness when it is unclear what the cause is, or whether other routes have been explored and exhausted.

9.2 A contractor inspection – this could include an inspection by a damp proofing, roofing, plumbing, drainage or ventilation contractor. Due to a potential commercial influence these surveys are not considered to be independent surveys, however, data included can provide valuable insight into the symptoms observed.

9.3 Independent specialist survey – usually carried out by an independent RICS surveyor. These surveys will be carried out in cases where the causes of damp and mould remain unclear or disputed following a combination of the inspections noted in points 9.1 – 9.2.

10 Technology and Monitoring

10.1 As part of a proactive and holistic approach to preventing and identifying the causes of damp and mould, the Council will make use of technology and monitoring equipment. This equipment will never record personal data, audio or video. Such equipment could include:

- Data loggers on fans and ventilation units
- Data gateways on multi-function heat / carbon monoxide alarms
- Quantum smart storage heaters

10.2 Typical data gathered by such equipment includes:

- Records of ventilation systems being manually turned off
- Indoor temperatures
- Indoor humidity
- Carbon monoxide levels
- Carbon dioxide levels
- Dust contamination

- Fire detection alerts
- Air quality
- Occupancy patterns
- Draft detection / open window alert

10.3 By remotely monitoring this data, it is possible to either prevent conditions leading to poor air quality, damp or mould, or to identify triggers for symptoms which already exists. This may help to identify repairs required, or to better guide tenants on appropriate use of the property and equipment.

11 Improvements

11.1 MDH has an aging and largely rural housing stock. In this regard, many of our properties are unlikely to meet modern building standards in relation to protection from dampness, thermal properties and access to affordable heating. Subject to funding, MDH will endeavour to carry out improvements to properties to assist tenants with creating a warm, healthy environment, free from damp and mould. Improvements could include:

- Provision of a mould treatment kit for free of charge
- Change of heating type from all electric to gas or renewable
- Internal insulation (thermal boarding)
- External insulation
- Cavity wall insulation
- Floor or ceiling insulation
- Retro-fit damp proof membrane or injection
- Additional mechanical extraction
- Heat recovery units
- Positive input ventilation units
- Additional external drainage

11.2 As improvements fall outside the scope of responsive repair, right to repair and Decent Homes Standard timescales, any commitment to improvements are likely to be on a much longer term timescale and subject to change.

12 Landlord Responsibilities

12.1 Section 11 of the Landlord and Tenant Act 1985 places an obligation on the Council, as a landlord, to maintain the exterior and structure of the property. This includes installations for the provision of water, heating systems, drainage, sanitary appliances and gas and electricity. It ensures a rented property is kept in a good state of repair.

12.2 As also set out in the tenancy agreement, MDH commits to meeting its legal obligation to keep in repair the structure and exterior of the building, including roof tiles, gutters, drains and pipes.

12.3 Keeping in repair and proper working order the installations for water, gas, and electricity includes basins, sinks, baths, toilets, water tanks and pipes, gas pipes, boilers, electrical wiring, radiators and any other installation for space heating and water heating.

12.4 It is important to note, and in accordance the Landlord and Tenant Act 1985, MDH only has to repair the dwelling back to the standard it was when a tenant moved in, as long as the condition was satisfactory at that time. MDH is not required to upgrade or improve any part of the property, unless agreed in the tenancy agreement or undertaken by MDH voluntarily.

12.5 Reasonable timescales:

12.5.1 Where repairs fall within the scope of responsive repairs and the right to repair scheme these will be dealt with in accordance with the timescales set out in the repairs' handbook and right to repair guidance.

12.5.2 Where repairs fall outside of the scope of responsive repairs or the right to repair scheme, and especially where external contractors are needed, temporary repairs will be attempted and major works will be carried out within a reasonable time period. This is normally before the end of the following financial year (for example major re-roofing, major re-plastering, and major concreting works, bathroom or kitchen renewal).

12.5.3 Improvement works generally carry no statutory timescales, and a reasonable timescale could vary between 6 months and several years, where agreed.

13 Tenant Responsibilities

13.1 In accordance with the Tenancy Agreement, our tenants have a contractual responsibility for:

- *'reducing damp, mould and condensation through ventilation and controlling moisture'*

13.2 As set out in section 11 of the Landlord and Tenant Act 1985, a tenant or leaseholder has a duty to “use the premises in a tenant-like manner”. In essence, this means that our tenants are expected to take good care of the dwelling, carry out daily maintenance tasks and not do anything that directly leads to a deterioration of the fabric of the building or the installations and facilities provided. For example, they should:

- Keep the dwelling clean
- Heat and ventilate the property appropriately – MDH will support and signpost tenants if there is financial hardship

13.3 The Defective Premises Act 1972 sets out that as a landlord, MDH cannot be liable for injury or damage caused by something that the tenant is responsible for repairing.

13.4 Tenants have an obligation to allow access for inspections and repairs, in accordance with the tenancy agreement.

14 Education and Improvement

14.1 All MDH officers will receive training on understanding the causes and symptoms of damp and mould, the potential impact on health, and the importance of reporting concerns. Technical officers and operatives will receive more in depth training to aid diagnosis and ensure appropriate investigations and repairs are carried out.

14.2 Accepted methods of diagnosing and treating dampness are regularly being reviewed and developed by industry experts. Technical officers will continue their professional development by monitoring changes in best practice and adopting new techniques.

14.3 The causes of damp and mould are complex and in many cases, our tenants may need support to understand the causes of damp, mould and condensation, as well as how to avoid this. MDH will ensure that this education is in a range of formats including verbal, written, audio, visual and video.

15 Exclusions and Limitations

15.1 Misuse / damage – where damp and mould is caused by misuse or damage, tenants may be responsible for arranging for or paying for repairs. In extreme cases, possession may be sought for breach of tenancy agreement.

15.2 Rooms outside of the habitable part of the property – sheds, store rooms, single skin stores, loft spaces and former coal stores do not form part of the habitable property and may not be free from damp or mould.

15.3 Leaseholders – MDH will be responsible for anything listed within the freeholder’s obligation within the lease. The cost of this is apportioned accordingly.

15.4 Garages – garages are not guaranteed to be dry or free from damp. They are designed to be secure off road parking for standard vehicles only.

16 Complaints and Feedback

16.1 We try to get things right the first time and when we do, we would love people to let us know. It’s great for us to receive positive comments or feedback, so if people wish to complement our staff for doing a great job, we would love to hear from them.

16.2 If things do go wrong the Council is committed to:

- Dealing with complaints and comments quickly and effectively; and
- Using complaints, comments and compliments to review and improve our services.

16.3 When people contact us to tell us they are dissatisfied with the service we have provided, we will offer them the choice to have an informal conversation to see if we can put things right quickly, without the need for a formal investigation.

16.4 The Housing Ombudsman Service advise that a complaint must be defined as:

‘an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents’.

16.5 Where a tenant considers that the Council has given a poor service or has got something wrong, they may tell a member of staff in the first instance. This does not need to be treated as a formal complaint (unless the complainant asks us to do so) and may be resolved ‘there and then’ by way of an apology or plan of action. Any comments provided will be used to take appropriate action, or give information.

16.6 If a tenant does not want to do this or is unhappy with the response, they may make a formal complaint (stage 1), which can then be escalated to a stage 2 complaint if they are still not satisfied with the response. Having been through stages 1 and 2 if the tenant is still not satisfied, the tenant may contact the Housing Ombudsman Service.

16.7 MDH's complaints procedure is detailed on Mid Devon District Council website:
[Feedback and Complaints](#)

17 Review and Version Control

- 17.1 MDH will review this policy every 10 years and as required to address legislative, regulatory, best practice or operational issues.
- 17.2 This policy was produced in 2023 and is version 1.00.
- 17.3 This policy was adopted by Cabinet on xxxx.
- 17.4 This policy was adopted by Council on xxxx



Damp and Mould Policy - Equality Impact Assessment (EIA)

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and equality. The majority of the Act came into force on 1 October 2010.

The public sector Equality Duty came into force on 5 April 2011. The duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, delivering services and in relation to their own employees.

The Equality Duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

MDH is required by law to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- Foster good relations between people who share a protected characteristic and people who do not share it.

EIA will be carried out by MDH in respect of new or revised policies and a copy of the assessment will be made available. Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action will be necessary.

Service:	Mid Devon Housing	
Name of policy being assessed:	Damp & Mould Policy	
Lead officer responsible for EIA:	Operations Manager for Building Services	
Is this a new or existing policy:	New Policy	
<p>1. What are the aims and objectives of the policy?</p> <p>The aim of the Damp and Mould Policy is to take every reasonable action to identify, remedy and provide advice on damp and mould in Council homes in order to ensure a safe, health and comfortable environment for our residents, as well as to protect the fabric of our buildings.</p>		
<p>2. What outcome do MDH want to achieve from this policy?</p> <p>This policy has been written to ensure that wherever possible, residents are not adversely affected by the causes of damp and mould and drives forward an agenda of proactive action to tackle/manage the causes of damp and mould.</p>		
<p>3. Who is intended to benefit from the policy?</p> <p>The Damp & Mould Policy will apply to all tenants</p>		
<p>4. Who are the main stakeholders in relation to the policy?</p> <ul style="list-style-type: none"> • All tenants • Household members • Family members of tenants 		
<p>5. On the basis of the analysis above, what actions, if any, will MDH need to take in respect of each of the equality strands?</p>		
Characteristic:	Impact: Please <input checked="" type="checkbox"/> the relevant box	Comments/Action:
Age:	Positive	<input checked="" type="checkbox"/>
	Neutral	<input type="checkbox"/>
	Negative	<input type="checkbox"/>
Disability: You're disabled under the Equality Act 2010 if you have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on your ability to do normal daily activities.	Positive	<input checked="" type="checkbox"/>
	Neutral	<input type="checkbox"/>
	Negative	<input type="checkbox"/>
<p>Very young and old tenants are more likely to be impacted by the effects of ongoing damp and mould issues.</p> <p>This will be mitigated by quick evaluation and resolution of any problems which may occur</p> <p>Tenants with a disability may be unable to resolve damp and mould problems themselves and may need assistance to help with causes</p> <p>This will be mitigated by quick evaluation and resolution of any problems which may occur</p>		

Gender:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		
Gender reassignment:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		
Marriage and civil partnership:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		
Pregnancy and Maternity:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		
Race:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		
Religion and Belief:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		
Sexual Orientation:	Positive		The policy will have no impact.
	Neutral	✓	
	Negative		

Result		
Are there any aspects of the policy, including how it is delivered or accessed, that could contribute to inequality?	Yes	<p style="text-align: center;">No ✓</p> <p>No major change needed: equality analysis has not identified any potential for discrimination or for negative impact and all opportunities to promote equality have been taken</p>
Will this policy have an adverse impact upon the lives of people, including employees and service users	Yes	<p style="text-align: center;">No ✓</p> <p>The policy provides a transparent framework that MDH will follow to ensure decisions on damp and mould and procedures that follow are</p>

		carried out in line with the policy.
<p>Monitoring and Review: MDH will regularly review the EIA, in line with legislative changes or good practice, or if the policy impacts any group directly.</p> <p>Operations Manager for Building Services: Mike Lowman</p> <p>Signed:</p>		

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **SCRUTINY COMMITTEE** held on 2 October 2023 at 5.30 pm

Present

Councillors

R Gilmour (Chairman)
G Westcott (Vice Chairman), D Broom, E Buczkowski,
F J Colthorpe, A Cuddy, G Czapiewski, B Holdman, S Robinson
and N Woollatt

Apologies

Councillors

M Farrell and R Roberts

Also Present

Councillors

S J Clist, G Duchesne and C Harrower

Present

Officers:

Matthew Page (Corporate Manager for People, Governance and Waste), Sarah Lees (Democratic Services Officer) and David Parker (Democratic Services & Policy Research Officer)

31 **APOLOGIES AND SUBSTITUTE MEMBERS (00:03:39)**

Apologies were received from Cllrs M Farrell and R Roberts no substitute members were offered.

Councillors A Glover, J Buczkowski, S Keable, and L Taylor attended the meeting via Teams.

Officers S Walford (Chief Executive), Richard Marsh (Director of Place) and Dean Emery (Corporate Manager for Income, Revenues, Planning Enforcement and Benefits) attended the meeting via Teams.

32 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT (00:04:34)**

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

33 **PUBLIC QUESTION TIME (00:04:50)**

Paul Elstone asked in relation to Agenda Item 7 - Work Programme. Specifically, 3 Rivers Lessons Learnt 1

Question 1

Given the increasing level of concerns being raised about both the value and integrity of the 3 Rivers "no blame" lessons learned process, will this Committee commit to a fully open and transparent plus very importantly a complete investigation ?

Question 2

It is noted that the Deputy CEO and S151 Officer is named as the Officer Responsible for the 3 Rivers Lessons Learned 1. Given this person's far reaching involvement in 3 Rivers and

including being a Director is this not immediately seen as a conflict in terms of integrity of the process ?

Question 3

Has a Full Terms of Reference been prepared ?

Question 4

If so, will the Terms of Reference be made fully available to the general public ?.

Question 5

Will the investigation fully cover the period from the 3 Rivers Development company formation in 2016 to full closure in 2024 ?

Question 6

Who exactly will make up the Lessons Learned Team ?

Question 7

Will an External Auditor plus ideally a specialist Root Cause Analyst support members of the Lessons Learned Team. This to provide the necessary expertise, impartiality and therefore credibility ?

Question 8

Who will draft the report ?

Question 9

Will the full and unedited report be made public and without redactions ?

Question 10

Will all the previous MDDC Council Leaders be formally invited to participate and meet with the Lessons Learned Team in a face-to-face meeting rather than paper submissions if they prefer. This to enable the highest quality of information exchange. ?

Question 11

Will other stakeholders be formally invited to participate this including well informed members of the general public ?

The Chairman said that she was yet to meet with Councillors and officers of the Council, at the meeting on 30 October the Terms of Reference would be set out and they would be explicit in the transparency and attention to detail that they will be undertaking. A written answer would be provided.

34 MINUTES OF THE PREVIOUS MEETING (00:09:08)

The minutes of the previous meeting held on 24 August 2023, were corrected at page 19 in the answer to Question 2 asked by Paul Elstone in the third sentence the word reply was amended to read rely. Cllr Woollatt also asked that it be noted that she was present towards the end of the meeting. The minutes of the meetings held on 14 August and 24 August were then approved as a correct record and **SIGNED** by the Chairman.

35 DECISIONS OF THE CABINET (00:12:46)

The Committee **NOTED** that none of the decisions made by the Cabinet on 19 September 2023 had been called in.

36 CHAIRMAN'S ANNOUNCEMENTS (00:12:49)

The Chairman had no announcements to make.

37 WORK PROGRAMME (00:12:50)

The Committee had before it, and **NOTED** the *Forward Plan and the *Scrutiny Work Plan.

On the Forward Plan the "Makeup of the senior officer structure in light of posts held vacant" was mentioned and it was agreed to see what Cabinet did about this matter and to call the decision in if a member of the committee was unhappy with any decision the Cabinet made.

On the Scrutiny Work Plan, Devon Home Choice was mentioned and it was agreed to bring this matter to the Scrutiny Committee if necessary after an all members briefing had been given.

Consideration was given to:

- The use of a form used to bring matters to the Scrutiny Committee and making changes to make the form easier to complete.
- KPI's on Enforcement – to come to March committee meeting.

Note: *Forward Plan and Work Plan previously circulated and attached to the minutes

38 WHISTLEBLOWING - 6 MONTH UPDATE (00:29:40)

The Corporate Manager for People, Governance and Waste gave a verbal report confirming that there had been no Incidents of Whistleblowing in the past six months. The manager explained that Whistleblowing Policy was where an Employee was raising an issue that was in the public interest and was different to the Grievance Policy where Employees raise issues concerning their employment.

39 MOTION 583 - PROTECTING RIVERS AND SEAS (00:31:16)

The Policy Research Officer for the Scrutiny Committee gave a verbal report regarding the background to Motion 583 and what progress had been made since the motion was passed. Consideration was given to

- Run off from roads, sludge, grit and oil running into leats.
- The compilation of an evidence base assessing the cumulative impact – the authority are in a challenging position in that MDDC do not have any formal remit or requirement in terms of recording this information or skills and expertise to analyse the data and the information they receive. MDDC do analyse the potable water supplies, but in terms of collation of information, digestion and understanding that information, MDDC haven't undertaken that because they do not have the resource or skill set. However, MDDC would be looking at it through the new Local Plan and would procure some specialist resource and skill in terms of undertaking a Water Cycle strategy, in the hope that that would give the council the capability and the capacity to work with South West Water and the Environment Agency, in order to give us an insight into the network as it exists, the shortfalls or failings that currently exist and the steps that MDDC through planned maintenance or future development can take in order to address this issue at source. The work will take place as MDDC

progress the new Local Plan but in terms of what we can do at present we are extremely limited.

- The Director of Place had not yet heard anything back from SWWA about the Consultation relating to drainage and wastewater management plans, but he is seeking from SWW whether there is a summary report which he will request to see.
- Invite Environment Agency and Natural England to appear before this Scrutiny committee
- The Cabinet have oversight of the Emergency Plan Policy alongside the Community PDG
- OFWAT's unwillingness to help
- Water Companies' increases to Service Charges
- Inviting SWWA back to the Scrutiny Committee
- The Voracity and Integrity of Data supplied by SWWA is questionable
- Phosphates and Nitrates breakdown of lump sizes – marker for sewage – the Bacterial count also is helpful as a marker.
- Would it be possible to get data about discharges at a Ward level so that Councillors could see what was happening at a local level against local anecdotal information
- Friends of the River Exe had produced a report working with communities and NGO's about the Pollution of the River Exe and it was encouraged that MDDC collaborate with the West Country Rivers Trust so that we can hone better our questions for South West Water Authority
- Employment of a Specialist
- Suggestion that MDDC works with the Friends of the River Exe
- In Planning Applications – if SWWA are asked if there are connections, they answer yes, even though they know that that development would be likely to cause storm overflows.
- Environment Agency Enforcement – they only have 0.8 of an Enforcement Officer across the whole of Devon and Cornwall meaning that offenders thought it unlikely that any action would be taken against them
- Floodwise, a scheme of the Environment Agency, set up to work in Partnership with local agencies and are passionate about people working together in partnership
- Unhappiness with the tangibility of answers the SWWA had given the last time that they were before this committee.
- West Country Rivers Trust
- Difficulties with getting hold of anyone from the Environment Agency or Southwest Water to ask questions about important casework.

The Director of Place said that he would look to join this work up across the various agencies and other authorities and look to learn from best practice.

The Chairman said that we should encourage both agencies to make themselves available to the Scrutiny Committee. The Chairman also thought that MP's across Devon should put together a motion to Parliament calling on the Government to put more money into the Environment Agency to fully fund Environmental Enforcement across Devon, or to ask the Chairman of the Environment agency to look at this matter himself.

There was agreement that this matter should come back to the Scrutiny Committee in four month's time.

(The meeting ended at 6.40 pm)

CHAIRMAN

MDDC SCRUTINY COMMIT+TEE MEETING 2ND OCTOBER 2023

PAUL ELSTONE - A local resident and council taxpayer.

My questions relate to Agenda Item 7 - Work Programme. Specifically, 3 Rivers Lessons Learnt 1

Question 1

Given the increasing level of concerns being raised about both the value and integrity of the 3 Rivers “no blame” lessons learned process, this including concerns raised by a sitting Member of Parliament plus the General; Public . Also and importantly, I believe concerns raised by more than one previous MDDC Council Leader. Council Leaders who have themselves been much maligned.

Will this Committee commit to a fully open and transparent plus very importantly a complete investigation ?

A. The committee has not yet set the terms of reference for the report. However, the committee is keen to ensure that there is value from this exercise so that the council can reflect and consider this in decision-making moving forward.

Question 2

It is noted that the Deputy CEO and S151 Officer is named as the Officer Responsible for the 3 Rivers Lessons Learned 1. Given this persons far reaching involvement in 3 Rivers day one and including being a Director is this not immediately seen as a conflict in terms of integrity of the process?

A. The committee has not yet set the terms of reference for the report.

Question 3

Has a Full Terms of Reference been prepared ?

A. Not yet.

Question 4

If so, will the Terms of Reference be made fully available to the general public ?.

A. The chairman explained that the terms of reference will be discussed at the next meeting.

Question 5

Will the investigation fully cover the period the 3 Rivers Development company formation in 2016 to full closure in 2024 ?

A. The committee has not yet set the terms of reference for the report.

Question 6

Who exactly will make up the Lessons Learned Team?

A. The committee has not yet set the terms of reference for the report.

Question 7

Will an External Auditor plus ideally a specialist Root Cause Analyst support members of the Lessons Learned Team. This to provide the necessary expertise, impartiality and therefore credibility?

A. To be clear, this is not just an(other) audit report. The company, and the council's relationship with it, has already been subject to at least four internal and external audit reports over the past few years, at significant time and cost to the council. This is in addition to the separate financial audits by external auditors of the council and the company on an annual basis. Members have considered these at multiple points and audit will continue to provide reports (via the council's audit function) as the company is wound down, so as to provide assurance to the council. However, this is about reflecting on these reports and a range of other factors to help improve decision making going forward.

Question 8

Who will draft the report ?

A. This has not yet been decided.

Question 9

Will the full and unedited report be made public and without redactions?

A. The committee has not yet set the terms of reference for the report, however there would be a strong preference for making the report public, as the chairman has already stated.

Question 10

Will ALL the previous MDDC Council Leaders be formally invited to participate and meet with the Lessons Learned Team in a face-to-face meeting rather than paper submissions if they prefer. This to enable the highest quality of information exchange. ?

A. The committee has not yet set the terms of reference for the report and will need to take a view on the involvement of any external stakeholders.

Question 11

Will other stakeholders be formally invited to participate this including well informed members of the general public?

A. The committee has not yet set the terms of reference for the report and will need to take a view on the involvement of any external stakeholders.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **HOMES POLICY DEVELOPMENT GROUP** held on 26 September 2023 at 2.15 pm

Present

Councillors

C Adcock (Chairman)
J Cairney, S Chenore, A Glover, F W Letch,
N Letch, S Robinson and H Tuffin

Apology

Councillor

C Harrower

Also Present

Councillors

D Broom, J Buczkowski, B Holdman, S Keable and D Wulff

Also Present

Officers

Simon Newcombe (Corporate Manager for Public Health, Regulation and Housing), Claire Fry (Operations Manager for Housing Management Services), Dr Stephen Carr (Corporate Performance & Improvement Manager), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Sophie Richards (Customer Engagement Officer, Mid Devon Housing), J P McLachlan (Principal Accountant), David Parker (Democratic Services & Policy Research Officer) and Sarah Lees (Democratic Services Officer)

28 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr C Harrower.

29 **PUBLIC QUESTION TIME**

Mr Paul Elstone asked the following questions in relation to Agenda Item 6 - Medium Term Financial Plan.

Question 1

At the Cabinet Meeting of the 19th September 2023 the Cabinet Member for Finance said the following and in response to a question from a Member of the Public:

“It is currently estimated that the soft closure of the 3 Rivers will be delivered during the remainder of the financial year 2023/24 and therefore previous impairment provision and any further write-off considerations will be completed in the current year. Therefore, no impact will need to be carried forward to future budgets in the Council’s Medium Term Financial Plan”.

Can the S151 Officer please confirm that he fully concurs with this statement?

Question 2

When preparing the MDDC Budget for Years 2023 – 2024 an impairment of £790,000 was provisioned for. This against 3 Rivers bad debt. That an additional impairment of £4.5 million for 3 Rivers bad debt was only added in June 2023 and 3 months after the 2023 - 2024 budget was approved by Full Council.

It is on public record that the Council S151 Officer anticipates a loss of around one third of the total loan amount to 3 Rivers. As the loan amount stated is £21.3 million this is currently a loss of over £7 million.

Given these numbers can it be fully explained how a budgeted impairment amount of just £790,000 can cover a loss of over £7 million and rising and that no 3 Rivers bad debt will be carried forward to following years?

Question 3

Regarding Appendix 2 of your papers reference 'HRA Medium Financial Plan 2024 to 2029', assumptions point 9 says the following "relating to impairment to be charged to HRA in 2023/24".

Please can you tell me what is the full amount of this impairment?

Question 4

What exactly it is the impairment for?

Question 5

Is it anything to do with 3 Rivers or Post Hill ?

It was stated that written answers would be provided after the meeting.

30 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

Cllr A Glover declared a personal interest in that she is a Council tenant.

No other interests were declared under this item.

31 **MINUTES**

The minutes of the meeting held on 8 August 2023 were approved as a correct record of the meeting and signed by the Chairman.

32 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman made the following announcements:

- He thanked the officers for providing such comprehensive reports to the meeting.
- He stated that the Group had a long agenda before it and he hoped Members would be concise and stay on topic during their discussions.

33 **MEDIUM TERM FINANCIAL PLAN - GENERAL FUND (GF) AND HOUSING REVENUE ACCOUNT (HRA) (00:10:00)**

The Group had before it a report * from the Deputy Chief Executive (S151) and Corporate Manager for Public Health, Regulation and Housing presenting the updated Medium Term Financial Plan (MTFP) which covered the period 2024/25 to 2028/29 for both the General Fund (GF) and the Housing Revenue Account (HRA) and which considered initial budget savings options.

The following was highlighted within the report:

- The MTFP was not a budget, it was a plan covering five years.
- It was based upon some significant assumptions and predictions.
- The Group were asked to identify options to address the current shortfalls within the proposed budget.

Consideration was given to:

- Any transfers from Reserves would need to be replenished within the MTFP time frame (5 years).
- The provision for the repayment of borrowing was explained.
- The interest payable with regard to the Public Works Loan Board and its connection to the HRA development programme.
- 'Cost pressures' were explained including the ambitious development programme and regulatory pressures to meet certain standards such as fire safety.
- Garages and garage ground rent income.
- Membership fees to professional organisations and the risks of reducing these.
- Balancing the desire to maintain services against a need to close the budget gap given that the Council was not in control of increasing its own rents.
- Shared Procurement Services.

RECOMMENDED to the Cabinet that:

- a) The savings options identified in relation to Corporate Management (cost centre PS733 / HO130) and Building Services (cost centre HO130) be approved.
- b) Membership fees in relation to professional organisations (cost centre HO320) be retained at current levels.

(Proposed by the Chairman)

Further **RECOMMENDED** to the Cabinet that officers are encouraged to explore shared services with other local authorities in Devon wherever possible in order to maximise services and minimise costs.

(Proposed by Cllr F Letch and seconded by Cllr S Robinson)

Reason for decision:

By undertaking an annual review of the MTFP the Council could ensure that its Corporate Plan priorities are affordable. The implications of the revised budget gap were set out within the paper. Many areas required greater clarity, particularly around national funding and the possibility of additional funding to offset the implications of the Cost of Living Crisis. Therefore a number of key assumptions underpinned the reported position, which would be refined as greater clarity was received through the budget setting process.

- Notes:
- (i) * Report previously circulated; copy attached to the signed minutes.
 - (ii) Cllr F Letch requested that his vote against (b) retaining professional membership fees, be recorded.

34 **MID DEVON HOUSING DAMP AND MOULD POLICY (00:47:00)**

The Group had before it a report * from the Corporate Manager for Public Health, Regulation and Housing setting out how Mid Devon Housing will address issues of damp, mould and condensation within the Council's tenanted and leasehold housing stock.

The following was highlighted within the new policy:

- The new policy set out the Council's approach following all recent government recommendations and legal provisions regarding damp and mould.
- There had been some recent high profile cases nationally that had led to a tightening up of responsibilities in this area. Long term exposure to damp and mould was a health issue, particularly for children.
- Damp and mould could often be quite complex to diagnose and could be due to a number of factors
- Damp and mould could never be eradicated completely but every reasonable effort would be made to treat it.
- The policy needed to include an additional paragraph regarding a follow up visit following any improvement work.

Discussion took place regarding:

- A request was made that the treatment and management of damp and mould be reflected in a Key Performance Indicator so that Members could better monitor work in this area.
- A further request was made that Members have sight of the Tenants Repair Handbook.

RECOMMENDED to Cabinet that it recommends to Council the adoption of the new Damp and Mould Policy with the addition of the following paragraph:

'To ensure that treatment has been effective, and damp and mould has not reappeared, any improvement work will be accompanied by a follow up visit to the property. MDH will allow at least 6 weeks after the initial treatment to revisit the dwelling. Any issues reported by tenants in the meantime will be acted upon

promptly. If damp and mould have reappeared, further investigation and intervention will be pursued.'

(Proposed by Cllr A Glover and seconded by Cllr S Chenore)

Reason:

The policy would set out how the Council intended to comply with its legal responsibilities and with the Housing Ombudsman's recommendations in 'The Spotlight on Damp and Mould' report and well as its wider health, safety and wellbeing requirements towards its tenants under the statutory Homes Standard published by the Regulator of Social Housing and the new Social Housing Regulation Act 2023.

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

35 **REVIEW OF MID DEVON HOUSING (MDH) RECHARGES POLICY (01:00:00)**

The Group had before it, a report * from the Corporate Manager for Public Health, Regulation and Housing. Mid Devon Housing (MDH), as a social landlord, incurred costs that arose from works and other activities which were normally the responsibility of the tenant, including repair of deliberate damage, pest control and property cleans and clearances. The MDH Recharges Policy sought to define the circumstances where such recharges occurred and make clear MDH's intention to recover such costs.

The officer outlined the contents of the report with particular reference to the following:

- This was a light touch review with minor changes. It set out the responsibilities of both landlord and tenants.
- The service did incur costs where recovery was required, such as deliberate damage to property and missed appointments.
- Opportunities to recover costs were sometimes limited especially where tenants disappear without notice.

Discussion took place with regard to:

- A variety of methods we used to keep tenants informed including home visits, hard copies of the policy and inspection works.
- A request was made that all tenant specific letters or other correspondence included contact details of their Ward Member/s going forwards.
- The new Customer Relationship Management (CRM) system might be able to have a facility to quickly identify a tenant's Ward Member.

RECOMMENDED to the Cabinet that the revised Mid Devon Housing (MDH) Recharges Policy be approved.

(Proposed by Cllr S Chenore and seconded by Cllr S Robinson)

Reason for the decision:

The Council was (and must be) a registered provider of social housing and therefore was required to comply with the regulatory framework and consumer standards operated by the Regulator for Social Housing (RSH).

As such, it is necessary to ensure that the Recharges Policy addresses all the relevant legal obligations the Council has as a landlord for the housing estate. Consequently, the policy has been produced to ensure MDH has a clear basis for compliance with the relevant statutory consumer standard, which is the Home Standard in this case.

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

36 **TENANT INVOLVEMENT AND ENGAGEMENT STRATEGY ACTION PLAN (01:10:00)**

The Group had before it, and **NOTED**, a report * from the Corporate Manager for Public Health, Regulation and Housing. All Registered Providers of social housing (RP's) were required to ensure that tenants were given a wide range of opportunities to influence and be involved in policy development work; decision making in relation to service delivery; scrutiny of their landlord's performance and the setting of strategic priorities.

The following was highlighted within the report:

- The Housing Service had always had a programme of tenant engagement but this had been brought to the fore since the Grenfell disaster.
- Tenants were at the heart of everything the Housing Service did.
- The Communications Strategy was key.
- Staff training would be enhanced and there were many ways Members could also get involved, for example, by attending neighbourhood walkabouts.
- There were 7 objectives within the Action Plan including timescales and expected outcomes.
- There was a dedicated Tenant Involvement Team.
- The digital approach was being expanded as well as opportunities for tenants to meet officers and other agencies face to face.
- The team were reviewing their approach to surveys and the data collected.
- Facebook was a very popular medium used by tenants to interact with the Council.

Discussion took place regarding:

- Members were encouraged to email feedback to the team by email if they wished.
- A 'Housing Matters' meeting had recently been held at the Leisure Centre in Crediton, a lot of other ad-hoc meetings had also been held, however, the team felt that not a great number of tenants were coming forwards to engage in this way anymore. Social media forums were proving more popular.
- Training online would be developed further to assist tenants with accessing information.

- There are Tenant Champion roles for tenants.
- Regular and ongoing engagement with tenants at an early stage was key.
- The escalation process.
- Expectations had to be managed, the Housing Service still needed to prioritise issues such as Health & Safety and Anti-Social Behaviour (ASB).

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

37 **CONSULTATION ON CHANGES TO THE FEES REGIME OPERATED BY THE REGULATOR FOR SOCIAL HOUSING**

The Group had before it a report * from the Corporate Manager for Public Health, Regulation and Housing. If adopted, the Council, as a Registered Provider of Social Housing, would be required to make a payment, based on the numbers of homes in the housing stock. This would represent a significant change due to the fact that up until now, local authorities had not been required to make any payments to the regulator in support of the regulatory function.

This was a new requirement under the Government's consumer regulation regime which was overseen by the Regulator of Social Housing. The Council was being given an opportunity to respond to the consultation. There were a number of options the Council could take from wholly disputing the proposed charges to providing no comment at all.

Consideration was given to the following:

- The Regulator was likened to Ofsted in that they were a statutory body of the Government with whom the Council had to comply. They had powers to impose legal sanctions for non-compliance, however, there was an opportunity to push back on the principle or level of charging through the current consultation.
- The payment of fees is not currently budgeted for within the Housing Revenue Account. Increasing rents in order to cover these additional costs would not be an option so this would be a further budget pressure going forward.

RESOLVED that the Homes Policy Development Group wholly dispute the changes to the fees regime operated by the Regulator for Social Housing and wished for this to be considered as part of the Council's response to the consultation.

(Proposed by the Chairman)

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

38 **BRIEFING ON NEIGHBOURHOOD MANAGEMENT (0152:00)**

The Group received a presentation from the Operations Manager for Housing providing information on how MDH managed its social housing neighbourhoods. This included the following information:

- What was included within Neighbourhood Management.
- The Landlord Service and its objectives.
- The Regulatory Framework.

- The external factors impacting the work of the Housing Service such as the cost of living crisis.
- Allocations and Lettings.
- Maximising income.
- Estate management and walkabouts.
- Fire Safety.
- Tenancy Home Checks.
- Complaints.
- Risk Management.
- Tenant Rights.

39 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (02:20:00)

In addition to the items already listed in the work programme for the next meeting the Group requested that it receive the following:

- Quarter 2 Service Performance update.

It was also requested that an all Member briefing take place on Devon Home Choice sometime in the future.

(The meeting ended at 4.39 pm)

CHAIRMAN

MDDC HOMES PDG MEETING 26th SEPTEMBER 2023

Paul Elstone - A local resident and council taxpayer.
My questions relate to Agenda Item 6 - Medium Term Financial Plan.

Question 1

At the Cabinet Meeting of the 19th September 2023 the Cabinet Member for Finance said the following and in response to a question from a Member of the Public

Quote:

“ It is currently estimated that the soft closure of the 3 Rivers will be delivered during the remainder of the financial year 2023/24 and therefore previous impairment provision and any further write-off considerations will be completed in the current year”.

“Therefore, no impact will need to be carried forward to future budgets in the Council’s Medium Term Financial Plan”.

Unquote:

Can the S151 Officer please confirm that he fully concurs with this statement ?

Yes

Question 2

When preparing the MDDC Budget for Years 2023 – 2024 an impairment of £790,000 was provisioned for. This against 3 Rivers bad debt. That an additional impairment of £4.5 million for 3 Rivers bad debt was only added in June 2023 and 3 months after the 2023 - 2024 budget was approved by Full Council.

It is on public record that the Council S151 Officer anticipates a loss of around one third of the total loan amount to 3 Rivers As the loan amount stated is £21.3 million this is currently a loss of over £7 million.

Given these numbers can it be fully explained how a budgeted impairment amount of just £790,000 can cover a loss of over £7 million and rising, and that no 3 Rivers bad debt will be carried forward to following years?

The financial regulations require any impairment be included in full in the year in which it is deemed necessary for the impairment to be actioned. Therefore, it is not a cost that is budgeted for. This regulation has changed since the previous £790k impairment which was written down over a 5 year period – with 2023/24 being the final year.

A further £4.5m impairment was included within the 2022/23 accounts. Any remaining impairment following the decision to soft close the company will be included within the year is crystallises, and is expected to be 2023/24.

Question 3

Finance Appendix 2 of your papers reference HRA Medium Financial Plan 2024 to 2029 Assumptions Point 9 says the following. “ relating to impairment to be charged to HRA in 2023/24”. Please can you tell me what is the full amount of this impairment?

As outlined in answer to Q2, the relevant impairment will be made within 2023/24 and will not form a part of the HRA budget. At the current time, the level impairment is not known as there are many different determinables that require greater clarity at this time.

Question 4

What exactly it is the impairment for?

The sunk costs of Post Hill following the Cabinet decision to pause the development.

Question 5

Is it anything to do with 3 Rivers or Post Hill ?

See Q4 above.

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **ECONOMY POLICY DEVELOPMENT GROUP** held on 5 October 2023 at 5.30 pm

Present

Councillors

J M Downes (Chairman)
G Cochran, A Cuddy, M Farrell (Vice
Chairman), B Fish, M Fletcher and N Letch

Apology

Councillor

G Westcott

Also Present

Councillors

E Buczkowski, J Buczkowski, S J Clist, G Czapiewski,
G Duchesne, A Glover, C Harrower, S Keable, F W Letch,
J Lock, L Taylor, J Wright and D Wulff

Also Present

Officers

Richard Marsh (Director of Place), Matthew Page (Corporate Manager for People, Governance and Waste), Paul Deal (Corporate Manager for Finance, Property and Climate Change), Luke Howard (Environment and Enforcement Manager), Adrian Welsh (Strategic Manager for Growth, Economy and Delivery), Zoë Lentell (Economic Development Team Leader), Angie Howell (Democratic Services Officer) and Sarah Lees (Democratic Services Officer)

24 **APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllr G Westcott.

Cllrs: E Buczkowski, J Buczkowski, S Clist, G Czapiewski, A Glover, F Letch MBE, J Lock, L Taylor and D Wulff attended the meeting via Teams.

25 **PUBLIC QUESTION TIME**

There were no questions from members of the public.

26 **DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

27 **MINUTES**

The minutes of the previous meeting, held on 3 August 2023, were approved as a correct record and **SIGNED** by the Chairman subject to an amendment to state that Cllr M Fletcher was present as a Group member at the meeting and not online as well.

28 CHAIRMAN'S ANNOUNCEMENTS

The Chairman stated that he would be taking, item 8, the Car Parking Working Group as the next item of business and that item 6, the Medium Term Financial Plan – General Fund, as the penultimate item of business on the agenda. This was to accommodate officers having other meeting commitments during the evening.

29 CAR PARKING WORKING GROUP UPDATE (00:05:00)

The Chairman of the Car Parking Working Group, Cllr Guy Cochran, provided the following update on what had taken place since the last meeting:

- The first meeting of the parking consultation group was held on 20 September 2023. Representatives of Tiverton and Crediton Town Councils, business groups and prominent business owners, Members and officers had been present.
- There had been an emphasis by officers surrounding the importance of coming up with credible and economically viable proposals that would encourage the Economy Policy Development Group to make recommendation to the Cabinet for potential implementation. The aim was to look at this from a longer term perspective, as the impact of the recent changes brought in at the end of June 2023 needed to be assessed in terms of their impact (likely to be a 6 to 9 month period). It was therefore likely that the working group would be looking at the 2024-2025 financial year for these proposals to be considered.
- It was also stressed that with inflation stubbornly high the cost of running parking including associated utilities like tarmacking, machine maintenance and patrolling public areas was considerable.
- During discussion, a review of the terms of reference was undertaken and discussion held within the group on how these could represent respective communities.
- Future agenda items were discussed and the group decided that the most pressing matters for them were:
 - To look at a 3 hour tariff option being brought in alongside the current 1 and 2 hour rates to encourage more visitors and residents to spend longer in the towns.
 - To look at how empty car spaces were utilised, for example, trial cheaper rates for certain spaces to see if they were used.
 - To look at ways to incentivise permits, for example, car sharing, monthly debits with a particular focus on business.
 - To get Christmas parking for the year ahead signed off and in the budget, for example, arrangements for Christmas parking 2024 to be agreed when the 24/25 budget was set and agreed by full Council.
 - To review Tiverton Disability Access – including Kerbside and Disabled Spaces.
 - To examine Market permits being issued to traders on special events, which then prevented shoppers from being able to park.

- The actions requiring sign off from the Cabinet Member for Finance were raised in relation to parking over the Christmas period. It was agreed that the 5 Saturdays before Christmas were requested for free parking in 2023, for example, 25 November then 2, 9, 16, 23 December. These would be applicable in the Multi-Storey Car Park, Tiverton, Station Road Cullompton and High Street/St Saviours Way, Crediton.
- Further meetings are planned to take place every 6-8 weeks.

Discussion took place with regard to:

- When the Group would see the written Terms of Reference from the Working Group including the proposed outcomes? It was confirmed that a paper would be brought to the next Policy Development Group meeting in November.
- The need for it to be very clear that the eventual recommendations to the Cabinet would be coming from this Policy Development Group.
- Whether a special permit could be provided to individuals enduring exceptional circumstances, for example, a terminally ill resident receiving ad-hoc palliative care. It was confirmed that if the individual approached Parking Services through their Ward Member then this ought to be possible.
- More attention needed to be paid to the location of coach parking within Tiverton.
- Whether it was possible to provide an incentive for market traders to park their vehicles in the Multi-Storey Car Park (MSCP) rather than take up spaces in the public car park. It was confirmed that this was being looked at.
- Whether it was possible to 'bulk buy' tickets for use in the MSCP?
- The possibility of creating a facility for camper vans to park overnight.

The Chairman stated that he was very encouraged by the amount of work that was taking place. The issue was extremely important and was now being given the correct amount of consideration and focus.

30 **JUNCTION 27 UPDATE (00:25:00)**

The Director of Place provided a verbal update on Junction 27 which included the following information:

- Members were reminded of the significant allocation in the Local Plan given to Junction 27 which had included a particular focus on Leisure and Tourism with J27 providing a gateway to Mid Devon and the rest of the county.
- The Local Plan had been delayed in order to ensure the incorporation of the site.
- Since that time, progress had been significantly less than might have been expected or hoped for. This was unsurprising in some ways given the impacts of covid and subsequent economic turbulence.
- Over the last 2 years, officers had sought to engage with various landowners, promoters and interested parties. The Eden Project were granted a significant amount of funding, via Government, to explore options around the development of a new tourist destination called Eden Grounds. That work was completed and determined that whilst a destination was attractive to Eden as

an operator, it was not viable for the business to support the level of capital investment required to deliver an attraction at junction 27 and that it would therefore require facilitation by landowners or other operators across the site. This was a disappointing conclusion to the work.

- Since that time, officers had continued to seek to engage the other landowners and developers associated with the site – with mixed success.
- Some owners were keen to progress proposals, but these were not yet at a stage where developers or owners were proactively engaging with the Council in terms of progressing planning applications or other aspects of development.
- The position in relation to the planning policy on the site remained as agreed at the stage of the adoption of the Local Plan and, as such, the Council would seek to secure development in compliance with it.
- The passage of time and current market conditions meant that it would be necessary to review the planning policy for the site in the context of the new Local Plan. Work was already underway in terms of the development of the new Local Plan and, in the meantime, officers would continue to seek to engage the landowners and prospective developers in proactive dialogue.
- Members would have multiple opportunities to engage with this process through the Planning Policy Advisory Group as well as the Economy Policy Development Group.

The Chairman stated how disappointing this was given the initial excitement about J27 being the 'jewel in the crown' of Mid Devon, not to mention how delayed the Local Plan had been as result of these initial proposals.

31 **ECONOMIC DEVELOPMENT TEAM UPDATE (00:36:00)**

The Group had before it, and **NOTED**, a report * from the Director of Place updating Members on activities undertaken by the Economic Development Team during the last two months.

The following was highlighted within the report:

- The overall funding position regarding the Shared Prosperity Fund and the Rural England Prosperity Fund which was summarised as follows:
 - In total, the team had secured just over £1.8M of funding under both SPF and REPF. However, the funding was annualised (meaning the Council would not anticipate receiving next year's funding until after returning it's end of current year monitoring report on 1 May and there were no guarantees that the underspend would be rolled over).
 - The SPF and REPF funding was awarded disproportionately over the duration of the programme. During the first year (2022-23), the Council received £12% (£129,146.00) of the total SPF funding at the end of January for project delivery by the end of March. For the current year, 2023-24, the Council received 24% (£258,291.00) of the total SPF in July and next year the Council were due to receive the remaining 64% (£676,722.00).

- Similarly for REPF, the Council received 25% of the funding this year (£204,168) and were due to receive the remaining 75% of funding (£612,504) in 2024-25.
 - All funding must be spent by 31 March 2025.
- The team had commissioned 'Be Grant Ready' workshops delivered by Business West to support businesses, community groups and town and parish councils to help produce quality applications.
- Business Growth fit-out grants.
- The Prosper scheme providing general advice for starting and maintaining businesses.
- Agricultural innovation events.
- Local Growth Fund.
- A recent Jobs Fair with 220 attendees.
- Continuing work regarding visitor information boards in local towns.
- Continuing work in relation to Cullompton High Street and the Crediton Masterplan.
- The Group was informed of the Government's announcement for in principle funding for the Cullompton Railway Station. The final business case is due for submission at the end of the year and we should hear more from Government in the New Year once this submission has been formally considered.

Consideration was given to:

- What would happen if the funding was received later than predicted and the impact of this.
- Advertising had been undertaken including press releases, reminders, social media campaigns and direct contact.
- Perceived complexities of the application process, however, the team could always provide advice and support to help make the process simpler.
- The grant schemes were open to all organisations that were classed as a 'legal entity'.
- The procurement process and having to provide 3 quotes if the goods or services were over £2500 and 'best endeavours' if they were under this amount.
- The Council also worked with other groups such as the Petroc Innovation Centre.
- Feedback from businesses regarding the support workshops had been very positive.

Note: * Report previously circulated.

32 MEDIUM TERM FINANCIAL PLAN - GENERAL FUND (01:09:00)

The Group had before it, and **NOTED**, a report * from the Deputy Chief Executive (S151) presenting the updated Medium Term Financial Plan (MTFP) which covered the period 2024/25 to 2028/29 for the General Fund (GF) and considered initial savings options.

The following was highlighted within the report:

- This was a 5 year plan with figures in relation to years 2 – 4 being best guesses.
- The previous budget gap for 2024/25 of £1.5m had now increased to over £2m partly as a result of stubborn inflation and the Government's indicative increase in planning fees not transpiring.
- Assumptions had been made in terms of not using any reserves and the need to revise the capital programme.

The Group considered the savings options outlined in Appendix 2 and discussion took place regarding:

- Town Councils potentially being able to seek more 'value' from any assets transferred to them than the District Council could.
- The Council was not intending to achieve savings by imposing compulsory redundancies but rather it would consider not replacing people automatically when they left and undertake a thorough review of the risks involved in each case.
- What the green, amber and red risk categories meant.
- Where the Group agreed with potential savings proposals this was undertaken as an 'in principle' support to the approach. It expected the Cabinet to consider the detail of each suggestion.
- How staff sickness could best be managed and what the Council was already doing regarding this.
- This Group had a very small budget area but could be influential in suggesting areas for income generation and this would continue to be a high priority ambition of the Group.
- Members could attend other Policy Development Group meetings to offer specific ideas for budget savings in the relevant areas.

RECOMMENDED to the Cabinet that:

- i. A review of leases, where appropriate in relation to commercial income be undertaken with a view to increasing income.
- ii. Discussions regarding the transfer of assets and / or increases in financial contributions be progressed with the Town Councils.
- iii. An increase in income from parking charges be considered, specifically in relation to cost centres CP520 / 530 / 540.
- iv. Support be provided to a Council wide approach to de-scoping or downsizing activity in certain areas having considered all the relevant risks and assuming turnover allows for natural wastage in identified areas.
- v. A reduction in agency spend be considered wherever appropriate.
- vi. A reduction in the cost of staff sickness be pursued.

(Proposed by the Chairman)

Reason for the decision

By undertaking an annual review of the MTFP the Council could ensure that its Corporate Plan priorities were affordable. The implications of the revised budget gap were set out within the paper. Many areas require greater clarity, particularly around national funding and the possibility of additional funding to offset the implications of the Cost of Living Crisis. Therefore a number of key assumptions underpinned the reported position, which would be refined as greater clarity was received through the budget setting process.

It was **NOTED** that there could be possible cost reductions in relation to Business Rates, energy costs and fuel costs during 2024/25.

Note: (i) * Report previously circulated.

(ii) Cllr N Letch requested that her abstention from voting in relation to recommendation number 'iv' be noted.

33 **IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01:47:00)**

The following items were identified by the Group as needing to come forward to a future meeting:

- Using the 'Visit Mid Devon' platform to best effect.
- An update and further discussion on a number of anniversary events taking place during 2024 and how best to promote activities and maximise potential 'growth' for all those involved.
- An update on incubator space.

(The meeting ended at 7.25 pm)

CHAIRMAN

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MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **PLANNING COMMITTEE** held on 27 September 2023 at 2.15 pm

Present

Councillors

L J Cruwys (Chairman)
G Cochran (Vice Chairman), F J Colthorpe,
G Duchesne, R Gilmour, B Holdman,
M Jenkins, F W Letch, N Letch, M Farrell
and D Wulff

Apologies

Councillor(s)

S J Clist

Also Present

Councillor(s)

D Broom and S Keable

Also present

Virtually:

Cllr J Buczkowski and A Glover

Present

Officers:

Maria De Leburne (District Solicitor and Monitoring Officer), Richard Marsh (Director of Place), Angharad Williams (Development Management Manager), Jake Choules (Principal Planning Officer), Shane Burgess (Principal Planning Officer), Angie Howell (Democratic Services Officer) and Sarah Lees (Democratic Services Officer)

34 APOLOGIES AND SUBSTITUTE MEMBERS (00:03:38)

Apologies were received from Cllr S Clist who was substituted by Cllr D Wulff.

35 PUBLIC QUESTION TIME (00:03:54)

Barry Warren referring to Item 2 on the Plans List asked the following questions:-

Question 1. This application commenced from the premise of converting or using 2 redundant 'agricultural buildings' for housing. That being the case why is there no mention in the report before committee of the provisions of Local Plan Policy DM9 in respect of the conversion of Rural buildings? It is referred to in the applicants Ecological Impact Assessment at paragraph 1.2.2.

Question 2. The Report refers to the Conservation Officer Report but it has been summarised. Why is it not thought relevant to have in the committee report comments from the Court of Appeal in relation to Heritage Assets and advice such as "When considering the impact of development, great weight should be given to the asset's conservation.

Any harm or loss should require clear and convincing justification from the applicant.” Is not the Conservation Officer’s summary of the applicants Heritage Statement relevant to be brought to the fore “There is no public benefit from the harm as the applicant can provide houses through the consent they have, or the houses can be built elsewhere where there is no harm.”

Question 3. Condition 7 had been included to deal with concern and advice from the Public Health Officer. Is the condition practical and more importantly enforceable? Should not the condition also require evidence that the noise levels are not going to be exceeded? Condition 8 requires details but that does not prove noise levels.

Question 4. The Ecological Impact Assessment states that “The proposal would result in the destruction of up to 1,250 m2 of semi-improved neutral grassland with patches of ruderal plant species, and up to 100 m2 of bramble scrub. The proposals include the removal of five trees from the site to allow for access. Clearance of the site and the proposed development has the potential to adversely impact bats, nesting birds, dormice, reptiles, amphibians, badger and hedgehogs.” It further states “The development has the potential to improve the overall biodiversity of the site, achieving over 10% net gain in biodiversity unit...”

We are now on the Fourth version of the site plan since this report was written in November 2022 and we have different layouts and areas. What evidence have we that there will be a 10% biodiversity gain in the light of the latest plans?

The Chair advised that the questions would be answered during the application.

36 DECLARATION OF INTERESTS UNDER THE CODE OF CONDUCT (00:08:21)

Members were reminded of the need to declare any interests where appropriate.

37 MINUTES OF THE PREVIOUS MEETING (00:08:30)

The minutes of the previous meeting held on 30 August 2023 were agreed as a true record and duly signed by the Chairman.

38 CHAIRMAN'S ANNOUNCEMENTS (00:08:53)

The Chair had no announcements to make.

39 WITHDRAWALS FROM THE AGENDA (00:09:01)

Application 22/00907/FULL - Retention of disused quarry for use as two firing ranges at Devon & Cornwall Constabulary, Pondground Quarry, Holcombe Rogus was withdrawn.

40 THE PLANS LIST (00:09:20)

The Committee considered the application on the *Plans List.

Note: *List previously circulated and attached to the minutes.

- a) Application 22/02339/MFUL - Erection of extensions and improvement works to existing Church and presbytery at St James Church, Old Road, Tiverton.

The Development Management Manager outlined the contents of the report by way of a presentation which highlighted the following:-

- The church was located on Old Road, Tiverton, to the east of the canal near Tesco.
- The proposal was to significantly extend the building to the front, rear and both sides including joining the building to the presbytery at the eastern side.
- This would increase the floor area from approximately 400 square metres to 904 square metres.
- A church spire and bell tower would be added to the roof.
- An extension to the presbytery above an existing first floor garage would be approximately 51 square metres.
- There would be no changes to access or parking. Highways had no concerns as the existing 27 parking spaces would remain along with disabled parking, cycle parking and mobility scooter parking.
- The proposal would include removing a small section of hedge along the road frontage and replacing this with shrub and tree planting to allow sufficient room for pedestrian access.
- The major concerns had been the addition of the bell tower and the increase in noise levels with the bell ringing. Public Health had no objections.
- Due to concerns of residents conditions had been put in place for the bell to ring only at certain times.
- Conditions were also in place for lighting and ensuring that building mounted lights faced downwards and that lighting shields would be utilised on the car park.

Consideration was given to:-

- The amount of hedgerow to be removed which was confirmed at approximately 7 metres.
- The noise level of the bell and the concerns of some residents.
- Parking and the number of vehicles using the road.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr F W Letch and seconded by Cllr F J Colthorpe)

Reason for the Decision – as set out in the report.

Notes:-

- (i) Cllr L Cruwys requested that his abstention from voting be recorded.

- b) Application 22/02272/FULL - Erection of 2 dwellings following demolition of agricultural buildings utilising the Class Q fallback position (21/01146/PNCOU and 21/01148/PNCOU) at Land and Buildings at NGR 303765 110338, (Culm Park), Willand.

The Principal Planning Officer outlined the contents of the report by way of a presentation which highlighted the following:-

- The Application was called in to consider the impact on the countryside, the conservation area and the overall design.
- This proposal sought to use the fall-back position to demolish and erect two new dwellings in the place of three units approved under a previous Class Q scheme
- There had been a number of negotiations and revisions throughout the application and officers were now satisfied with the revised design.
- Conditions were in place to control the final appearance along with solar and heat pumps which could not be secured under Class Q schemes resulting in energy betterment.
- In addition to energy betterment, there was also amenity benefits.

In response to the public questions the Planning Officer answered as follows:-

Question 1

The application intended to demolish the existing buildings and replace them with two new dwellings due to the principle of a Class Q fall-back position. DM8 referred to the conversion of buildings and was therefore not relevant.

Question

2

The Conservation Officer's initial comments were summarised for the purposes of the report. This was noted in the report and stated that the comments were available to read in full online. The Conservation Officer's input had been considered in coming to the recommendation. There had been no objection to the final design.

Question 3

Officers were satisfied that all of the conditions met the six tests of planning conditions, this included the conditions being enforceable.

Question 4

Whilst the legislative requirement for a biodiversity net gain had not yet come into force, the recommendations of the Ecology Survey would allow the development to have a biodiversity net gain in the opinion of the ecologist. Conditions had been used so that the recommendations of the survey were followed and so that an Ecological Enhancement Strategy was submitted.

Consideration was given to:-

- The national planning policy framework and heritage assets.
- The removal of asbestos.

It was therefore **RESOLVED** that planning permission be granted subject to conditions.

(Proposed by Cllr F W Letch and seconded by Cllr M Farrell)

Reason for the Decision – as set out in the report.

Notes:-

- (i) Cllr B Warren spoke on behalf of Willand Parish Council.
 - (ii) Cllr A Glover spoke as Ward Member.
 - (iii) Cllr G Duchesne requested that her abstention from voting be recorded.
 - (iv) Cllr B Holdman requested that his vote against the application be recorded.
- c) Application 23/00228/FULL - Siting of a temporary rural workers dwelling with access track and erection of an agricultural building with yard at Land at NGR 288859 112585 (Park Meadow), Pennymoor, Devon.

The Principal Planning Officer outlined the contents of the report by way of a presentation which highlighted the following:-

- The application site was approximately 5km west of Tiverton.
- The existing agricultural land was 5.6 hectares.
- It was accessed by a single track lane.
- To the far west would be a small shed for storage of tools and a generator.
- There was an area for wildflowers and bat boxes.
- The husbandry of 30 alpacas equated to a full time worker.
- The applicant had addressed concerns by reducing the height of the building from 8m to 4.5m.
- Solar panels would be replaced with ground mounted panels.
- The generator was proposed to be sited on the north west of the site approximately 150m away from the nearest dwelling and the noise was equivalent to a loud conversation.
- The applicant had secured some further land off site for the non-breeding alpacas.
- The applicant had made changes to alleviate concerns raised by residents.

Consideration was given to:-

- Husbandry training courses and camping restrictions on the site.
- Biodiversity and ecological enhancements.
- Concerns regarding condition 8 and access to the site.

It was therefore **RESOLVED** that planning permission be granted subject to conditions and the Development Management Manager having delegated authority to work with the Chairman and Ward Member to enhance condition 8.

(Proposed by Cllr G Cochran and seconded by Cllr M Farrell)

Reason for the Decision – as set out in the report.

Notes:-

- (i) Cllr F J Colthorpe declared an interest as she had been involved with this application. The Case Officer had given Cllr F J Colthorpe a site visit and had kept her informed so that she could forward information to her constituents, some of which were attending today's Committee meeting.
- (ii) Mr Tucker spoke as the objector.
- (iii) Mr Holland spoke as the Applicant.
- (iv) Cllr F J Colthorpe spoke as the Ward Member.
- (v) Cllr F W Letch requested that his abstention from voting be recorded.
- (vi) Cllr F J Colthorpe requested that her abstention from voting be recorded.

41 MAJOR APPLICATIONS WITH NO DECISION (01:51:46)

The Committee had before it and **NOTED** a list* of major applications with no decision.

Note *List previously circulated and attached to the minutes.

42 APPEAL DECISIONS (01:57:16)

The Committee had before it, and **NOTED**, a *list of appeal decisions.

Note: *List previously circulated and attached to the minutes.

(The meeting ended at 4.13 pm)

CHAIRMAN

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **STANDARDS COMMITTEE** held on 18 October 2023 at 6.00 pm

Present

Councillors

A Glover (Chairman)
F J Colthorpe, J Frost, S Keable, L Knight,
S Robinson, L Taylor, N Woollatt and
D Wulff

Apologies

Councillor(s)

M Fletcher

Also Present

Councillor(s)

G Czapiewski and Smith

Also Present

Officer(s):

Stephen Walford (Chief Executive), Maria De Leburne (District Solicitor and Monitoring Officer), David Parker (Democratic Services & Policy Research Officer) and Sarah Lees (Democratic Services Officer)

13 APOLOGIES AND SUBSTITUTE MEMBERS

Apologies were received from Cllr Matt Fletcher who was substituted by Cllr Jamie Frost.

14 PUBLIC QUESTION TIME

Nick Quinn

Regarding Agenda Item 6 – Annual Report of the Monitoring Officer.

Paragraph 5.1 states that there were 12 complaints against Councillors in 2022/23 but none went to formal investigation.

Since nothing came of these complaints, Members might think they were petty, but this is unlikely as the formal complaints procedure is daunting and not be taken lightly.

You must provide: Your Full Name, Address, Phone Numbers and Email details.
Give details of: Who the complaint is against; What happened; Where and When; Names and Contact Details of Witnesses and any other evidence to support of the complaint.

You also have to give: The outcome you want.

You can ask that your personal details are not shared, but if the Monitoring Officer does not accept your reasons, you have to withdraw the complaint.

I see 4 of the 12 did that.

So 8 people felt strongly enough about something to risk identification and pursue their complaint formally - but not a single one made it to formal investigation.

The report says some of the complaints were about Respect, Bullying, Reputation and Communication – which raised “*important and complex questions*”, but it does not say how these were answered.

In fact there is nothing in this report about outcomes:

- no specific advice given to certain Councillors;
- no additional General Guidance or Training for all Councillors.
- no revisions to the Code of Conduct;

Nor is there anything about how the Complainant outcomes - whether they were satisfied, or not.

Q1: Will Standards Committee please consider asking for more information about the formal complaints, and their outcomes, to be included in future reports?

Q2: Will Standards Committee please consider asking for feedback information from the complainants to be included in future reports?

It was stated that these questions would be addressed during the debate under item 6 – Annual Report of the Monitoring Officer.

15 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**

No interests were declared under this item.

16 **MINUTES**

The minutes of the meeting held on 21 June 2023 were approved as a correct record of the meeting and **SIGNED** by the Chairman subject to the following context being added to minute number 9 to explain the proposed deferment:

Cllr N Woollatt **MOVED**, seconded by Cllr Mrs F J Colthorpe that this item be deferred to the next meeting so that the information needed to enable the committee to monitor and check that the constitution had been updated, could be provided.

17 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman had no announcements to make.

18 **ANNUAL REPORT OF THE MONITORING OFFICER FOR 2022/23 (00:16:00)**

The Committee had before it, and **NOTED**, a report * from the District Solicitor and Monitoring Officer providing it with an overview of the preceding year.

Consideration was given to:

- Receiving information in the future regarding the breakdown of complaints, for example, the number of Town and Parish Councillor complaints compared to the number of District Councillor complaints. It was explained that whilst the

Monitoring Officer had to be very careful about what information was put into the public domain this sort of information would be useful and would help the Committee to identify trends which could help in providing other Councils with advice.

- Whether the Council just accepted the findings of investigations or whether there was an opportunity to challenge them? It was explained that the Monitoring Officer's decision was final. It was also explained that just because a case may not go forward to a formal investigation it didn't mean the complaint wasn't looked into. The Monitoring Officer is responsible for drafting decision letters and sending them through to complainants after consultation with the Independent Person. They then had an opportunity to appeal under the judicial review system and take a case through the courts should they wish.
- The grounds for a case requiring a Hearing were all set out in the Constitution, however, LGA Good Practice stated it was better to try and deal with issues informally wherever possible. A great deal of work was required for a formal investigation.
- Since current information provided to the Committee was very high level it was suggested that going into Part II would sometimes be very beneficial in order for the Standards Committee to receive more detail. The Monitoring Officer stated that she would be happy to do this if the case warranted it in future and to expand on the information supplied in addition to providing a more in depth breakdown.
- There was some concern that the Constitution had not been updated since February 2023. It was explained that the delay had been due to some resource issues and there had been a lot of amendments to update the Constitution with. However, these had now been done and the updated Constitution would be uploaded to the website in the very near future.
- It was suggested that the Committee may find it helpful to receive information regarding the 'Thresholds for Intervention' so that more could be learned about the difference types of response and action needed as a result of a complaint depending on its nature.
- An industry expert in the Standards field had recently complimented the Council on the robustness of its procedures in dealing with complaints.

RESOLVED that the Annual Report of the Monitoring Officer be **NOTED** and circulated to all Town and Parish Councils for information.

(Proposed by Cllr S Keable and seconded by Cllr D Wulff)

Note: (i) * Report previously circulated.

(ii) The member of the public asking questions in relation to this item, having listened to the debate, was content not to receive written responses as he felt the issues had been addressed.

19 **RECOMMENDATION G OF THE TASK AND FINISH GROUP (COUNCIL PROCEDURE RULES) (00:40:00)**

At the previous meeting, the Standards Committee had deferred further consideration of Recommendation G of the Task and Finish Group to this meeting.

Recommendation G had been worded as follows:

“The rules on Substitute Members be amended so that trained substitutes may come from any group where there is no other trained Member in the permanent Members’ political group”.

Discussion followed with regard to:

- A previous Motion being dismissed on the grounds of needing balance.
- The problematical nature of such a change.
- A comparison had been made with other similar council’s and all required substitution of Members from the same political group.
- The suggestion may have been helpful as regards the Planning Committee due to it needing to be apolitical but it would not be appropriate across the rest of the Council’s committees.

RECOMMENDED to Full Council that Recommendation G of the Task and Finish Group on Council Procedure Rules not be supported.

(Proposed by the Chairman)

Note: Cllr J Frost abstained from voting.

20 **MOTION 577 (00:50:00)**

At the previous meeting, the Standards Committee had deferred further consideration of Motion 577 to this meeting.

The wording of Motion 577 had been as follows:

Motion 577 (A Wilce 16.11.2021)

A Motion to improve public accountability and to address the inequality of rights of Members of the Council, when compared to members of the public.

The Council resolves that:

When an enquiry is made by a Member at any formal meeting (verbally, or in writing) and a substantive answer is not given at that meeting, a written response shall be sent to the enquiring member within 10 days.

Wherever possible, any written questions submitted in the absence of the member shall be submitted in advance of the meeting, but a failure to do so will not invalidate that enquiry.

A copy of the question(s) and answer(s) will be circulated to members of the Committee (or Full Council) and will also be attached to the minutes.

Discussion took place with regard to:

- The discussions held by the Task and Finish Group who had originally recommended that Motion 577 not be supported.

- The need to remove the word 'substantive' from the original motion given one person's 'substantive' answer might be different from another person's.
- Ambiguities involved as to when a question was a question and when it was not.
- Officers already offered to provide written responses if they did not have the answers immediately to hand during a meeting.
- A need to make the original Motion clearer.

| **RECOMMENDED** to Full Council that Motion 577:

(i) Be amended to read as follows:

'When an enquiry, to which an answer is required, is made by a Member at a formal meeting and an answer cannot be given at that meeting, a written response shall be sent to the enquiring Member within 10 days.

A copy of the question(s) and answer(s) will be circulated to members of the committee (or Full Council) and will also be attached to the minutes'

(ii) The Motion, as amended, be supported.

(Proposed by Cllr N Woollatt and seconded by Cllr L Knight)

Note: Cllr J Frost abstained from voting.

21 **UPDATE ON THE BOOK OF MOTIONS (01:00:00)**

The Committee **NOTED** a verbal update regarding the Book of Motions.

It was stated that discussion had taken place during the previous meeting about making the Book of Motions more accessible to the public. It was explained that it was possible to view this on the website under 'Councillors & Democracy', 'Meetings, Minutes and Agenda's' and then by clicking on 'The Library' and then 'Book of Motions'. However, this was not ideal and not immediately evident to members of the public, therefore the Modern.Gov software suppliers, Civica, had been contacted to see if there was a better way of doing this. Democratic Services were still waiting to hear from them but would continue to liaise with Civica in order to find a satisfactory resolution to this outstanding issue.

It was confirmed that the Book of Motions was now updated after every full Council meeting stating what the Council's decision had been in relation to each Motion presented to it. However, further work needed to be undertaken by the Democratic Services team in completing the additional columns which had been added showing whether or the Constitution had been updated so that a full and updated version of the document was available to the public as soon as possible after each Council meeting.

22 **COMPLAINTS (01:05:00)**

The Committee **NOTED** a verbal update from the District Solicitor & Monitoring Officer which provided an update on complaints received since 21 June 2023. A small number had been received since the last meeting with the core theme of each

falling under the 'respect' heading. To have provided any further details would have meant having to go into Part II.

23 IDENTIFICATION OF ITEMS FOR THE NEXT MEETING (01:07:00)

The Committee requested that the following be on the agenda for the next meeting:

- The Council's Governance Arrangements
- Code of Conduct Complaint Appeal Procedure and Guide to Making a complaint about a Councillor review
- Update on the Book of Motions
- Amendments to the Constitution following Motions approved by Council (deferred from the Standards Committee meeting of 21 June 2023)

(The meeting ended at 7.11 pm)

CHAIRMAN

Appendix 1

	Totals	Lib Dem (LD) - 33	Conservative (CON) - 4	Greens - 3	Ungrouped - 2
% based on current membership of 42	100	78.57	9.52	7.14	4.76
Committee seats	101	79	10	7	5
Other Bodies	24				
Committee	No. on Committee	LD	Con	Greens	Ungrouped
Scrutiny	12	9.43 10	1.14 1	0.86 1	0.57 0
Audit	9	7.07 7	0.86 1	0.64 1	0.43 0
Environment	9	7.07 7	0.86 1	0.64 1	0.43 0
Homes	9	7.07 7	0.86 1	0.64 1	0.43 0
Economy	9	7.07 7	0.86 1	0.64 0	0.43 1
Community	9	7.07 7	0.86 1	0.64 0	0.43 1
Planning	11	8.64 9	1.05 1	0.79 1	0.52 0
Licensing	12	9.43 9	1.14 1	0.86 1	0.57 1
Regulatory	12	9.43 9	1.14 1	0.86 1	0.57 1
Standards Committee	9	7.07 7	0.86 1	0.64 0	0.43 1
Total	101	79	10	7	5
Other Bodies	No. on Group	LD - 19	Con - 2	Greens - 2	Ungrouped - 1
PWG <i>(NB: Members must sit on Planning Comm.)</i>	8	6.29 6	0.76 1	0.57 1	0.38 0
Planning Policy Advisory Group (PPAG)	9	7.07 7	0.86 1	0.64 1	0.43 0
Development Delivery Advisory Group (DDAG)	7	5.50 6	0.67 0	0.50 0	0.33 1
Total	24	19	2	2	1

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Report for: Full Council

Date of Meeting:	1 November 2023
Subject:	Governance Briefing Note
Cabinet Member:	Cllr Luke Taylor, Leader
Responsible Officer:	Maria de Leburne – District Solicitor and Monitoring Officer
Exempt:	N/A
Wards Affected:	All
Enclosures:	None

Section 1 – Summary and Recommendation(s)

To provide Members with an update on the work carried out so far on the proposed change to the governance system.

Recommendation(s):

- 1. To note the update. Also, Full Council to give the Monitoring Officer a steer on the options available within the report so further work can be carried out.**

Section 2 – Report

1.0 Introduction

1.1 Motion 591:

That this Council recognises that in order for the taxpayers to have faith in the ability of the Mid Devon District Council to make effective and transparent decisions that there has to be a fundamental change in the decision making process.

That this Council also acknowledges that in a mature democracy there is a need for inclusive government which enables all members to make a valuable contribution in the running of the Council.

Therefore this Council resolves to change from the Cabinet system of governance to a modernised Committee system to be implemented from the Annual Meeting of 2024.

This was approved at Full Council on the 22 February 2023. At this meeting the District Solicitor and Monitoring Officer stated to Full Council that if members indicated to go to a Committee system we would take this as a steer to go away and start preparing the governance framework for this type of system and that it would need to be brought back to Full Council for a final decision at some point in the future.

This report forms part of the journey of changing the council's system of governance.

2.0 Background

2.1 The previous administration on the 8 January 2020 resolved to set up a politically balanced working group to review the governance arrangements of the council. The group consisted of 12 members and carried out a comprehensive review of the council's governance arrangements with a view that any changes could take effect for the municipal year 2021/22.

2.2 The Local Government Association (LGA) assisted the working group and the wider membership of the council was also encouraged to be involved. External consultation was also carried out with a panel-led session in November 2020 which 6 members of the public registered to attend and 5 actually doing so. In January 2021 seven conclusions were agreed by Council and other themes were considered in March 2021.

2.3 The recommendations from the working group were put to an Extraordinary Full Council meeting held on 17 March 2021 and it was carried that in the absence of a clear mandate for change at this time, the council keeps the current executive governance arrangements; and also that they endorsed the continuation of the PDGs and in doing so, requests members and officers to find effective ways to support the groups future work programmes.

3.0 Options Available

3.1 The Local Government Act 2000 (as amended by the Localism Act 2011) sets out the governance models that must be operated by local authorities. These are:

- Executive - A mayor and cabinet or A leader and cabinet

- The committee system
 - Or other arrangements approved by the Secretary of State
- 3.2 Prior to 2000, all Local Authorities operated a committee structure whereby all statutory powers were given to the Council to allocate to committees and officers. In 2000, legislation was introduced whereby any Local Authority with a population in excess of 85,000 moved to an Executive model with a Leader and Cabinet. In 2007, legislation was introduced to change the Executive arrangements.
- 3.3 The Current system – Executive – Leader and Cabinet (albeit with some hybrid elements around our use of PDGs)
- 3.3.1 To date the Council has an Executive Leader/Cabinet system whereby the Council chooses its Leader, who then appoints other councillors to a Cabinet. Alongside the Cabinet is a Scrutiny Committee. There are also other Committees: Audit and Planning, and then Standards which has sub-committees, and Licensing and Regulatory Committees which again both have sub-committees. The Council also has an Appointments Panel and 4 Policy Development Groups (PDG): Community, Environment, Homes and Economy.
- 3.3.2 It may be that there members feel there is no need for a formal change in governance, and that any changes can be met by considering some amendments to the current system/processes.
- 3.4 Committee system
- 3.4.1 Full service committee system - This is a model in which individual service committees have the freedom to make decisions in the way that they like. Decisions which cut across more than one area will need to go to multiple committees for sign off.
- 3.4.2 Service committees but with strong Policy & Resources - It is common for these to have a policy and resources or strategy and resources committee – which has an overarching role in setting corporate policy. This committee may have the chairs of other committees sitting on it, and it may also set the agendas for the other committees. It normally will deal with major cross-cutting issues itself.
- 3.4.3 Streamlined – this is only a couple of service committees, a strategy and resources committee and a separate scrutiny committee.
- 3.5 Hybrid system
- 3.5.1 Legally the leader-cabinet system but with features of the committee system. 2 basic forms are.

- 3.5.1.1 A model where committees – which legally are scrutiny committees – actually act as de facto decision-making committees
- 3.5.1.2 A model where politically balanced Cabinet advisory committees or other such bodies exist as sub-committees of Cabinet, with overview and scrutiny remaining a distinct function.
- 3.5.2 For example, an executive arrangement may include committees which develop, scrutinise and support the decision-making process. At Mid Devon District Council, the Leader and Cabinet are supported by four policy development groups – groups which then recommend policy to the Cabinet.
- 3.5.3 Moving to a hybrid form of governance does not require any of the formal governance change rules that are found in legislation. Discussion of the change and some amendments to the constitution are however likely to be necessary.
- 3.6 The Centre for Governance and Scrutiny (CfGS) and the Local Government Association (LGA) suggested and revised a set of steps for councils to take in deciding whether to change governance option, and acting on that decision.
 - 3.6.1 Step 1 is before starting initiating the work to Plan your approach, and assess your current position. This involves assessing where you are now and establishing what change you need to deliver.
 - 3.6.2 Step 2 is Agree design principles which involves taking from an initial assessment a sense of the current governance strengths and weaknesses and using them to develop some design principles.
 - 3.6.3 Step 3 Think of ways to meet these objectives and put a plan in place which involves exploring different ways of working, deciding on the overall structural needs and planning for the change, and where necessary laying a motion for a resolution to that effect at full council.
 - 3.6.4 Step 4 is making the change i.e. the necessary legal steps altering the constitution and constructing the new structure etc.
 - 3.6.5 Step 5 Return to the issue after a year and review how things have gone.
 - 3.6.6 Steps 1-3 are ones that can be carried out by a cross party working group as the previous administration undertook in 2020.

4.0 Next Steps

- 4.1 That council decide the way they wish to proceed so that the Monitoring Officer can then start to review the required changes that will be required to the governance i.e. the Constitution, which will also affect policies etc.
- 4.2 The options available are:

- a) a further cross party working group with the assistance of, for example, the LGA – with terms of reference to be set
- b) do nothing and keep the executive leader and cabinet system as is
- c) review possible amendments to the current leader and cabinet system
- d) move to a more robust implementation of the hybrid system, utilising the PDGs for active scrutiny as well as policy development
- e) move to a committee system and if so which style

Financial Implications

There will be a cost in terms of council and officer time in addressing any constitutional or procedural changes arising from the recommendations. There may also be a cost if external legal assistance is required. The CfGS suggested costs range from £70,000 to 250,000 (in practice this would cover 'legal costs' in making changes to the councils constitution and wider governance framework and 'other costs' convening member meetings to oversee the change – with resource implication for members and officers and redesigning financial systems and procedures to accommodate the change and liaising with parties to discuss and agree how business with outside bodies will be transacted.

Legal Implications

Should Council decide that it wishes to change to a committee structure, such a change would only take effect at the annual meeting following the resolution, or such future annual meeting as the resolution specifies. If Council wishes to direct that changes be made to the Constitution which it would do if it changes to a committee structure, these should be considered by the Standards Committee first.

Risk Assessment

There is a clear risk that making a change to governance arrangements or making no change will be perceived as unsatisfactory, depending on any individual viewpoint. The key will be in how the Council then goes about making the arrangement work and/or work better. The Council has to decide as a collective, what it considers to be the best way forward.

Impact on Climate Change

None

Equalities Impact Assessment

None directly arising from this report, but impacts must be considered carefully in any decisions which result in a change to current practices affecting those with protected characteristics.

Relationship to Corporate Plan

Our values and priorities – equally important to the ‘what’ we are trying to achieve, is the ‘how’ the organisation operates and conducts itself.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 24 October 2023

Statutory Officer: Maria De Leburne

Agreed on behalf of the Monitoring Officer

Date: 24 October 2023

Chief Officer: Stephen Walford

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

Date: 24 October 2023

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Maria de Leburne, District Solicitor and Monitoring Officer

Email: mdeleburne@middevon.gov.uk

Telephone: 01884 255255

Background papers: None