

Report for: Homes Policy Development Group

Date of Meeting:	26 th September 2023
Subject:	REVIEW OF MID DEVON HOUSING (MDH) RECHARGES 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
Enclosures:	Annex A – Recharges Policy Annex B – Recharges Policy Equality Impact Assessment (EIA)

Section 1 – Summary and Recommendation

MDH, as a social landlord, incurs costs that arise from works and other activities which are normally the responsibility of the tenant, including repair of damage, pest control, and property cleans and clearances. The MDH Recharges Policy seeks to define the circumstances where such recharges occur and make clear MDH's intention to recover such costs.

Recommendation:

That the PDG recommends that Cabinet adopt the updated MDH Recharges Policy and Equality Impact Assessment contained in Annexes A and B respectively.

Section 2 – Report

1 Introduction and historic performance

- 1.1 The Social Housing Regulation Act received Royal Assent in 2023 and has now become law. At the point of review and update to this policy has been taken into account. The Act 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.
- 1.2 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 good their landlord is performing giving tenants a stronger voice. The Regulations take account of the aims and ambitions within the White Paper, 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)
- 1.3 As part of the new consumer regulation regime, 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 measure include those applicable directly to building safety as well as those based on tenant perception surveys setting out tenants views on our performance.
- 1.4 The TSM measures under the Homes Standard relevant to this policy include:
- TP01 - Overall Satisfaction
 - TP02 - Satisfaction with Repairs
 - TP08 - Agreement that the landlord treats tenants fairly and with respect

2 Review of the Recharge Policy

- 2.1 There has been a Recharge Policy in place for several years with the most recent version adopted in September 2018. It is therefore due to for review.
- 2.2 The review has taken into account the regulatory framework changes set out in Section 1 above, any new guidance from the regulators and other recent MDH or wider Council policy updates to ensure compliance and consistency.

- 2.3 The main aims of the updated MDH Recharge Policy are to set out:
- Under what circumstances we recharge tenants
 - When we would decide not to recharge a tenant
 - How to recover overdue chargeable repairs
 - To take fair but firm action to ensure that all debts relating to rechargeable repairs are collected to cover MDH costs
- 2.4 MDH will be pro-active in preventing relevant chargeable repairs by:
- Keeping tenants fully informed throughout their tenancy regarding their responsibilities and obligations relating to rechargeable repairs
- 2.5 The MDH Recharge Policy further sets out when a recharge will be made, confirming that tenants will be recharged for work carried out that is not MDH responsibility and that MDH will, as far is reasonably practicable, recover the costs.
- 2.6 A tenant may be recharged for any work MDH is required to complete which is not MDH responsibility as a landlord. Examples include: the replacement and fitting of light bulbs; replacement of lost keys; or repair of damage caused by a tenant, family member or visitor.
- 2.7 MDH cannot make charges in relation to a tenant exercising a statutory right. For example, a tenant cannot be recharged for submitting and withdrawing from a mutual exchange, although costs are incurred to MDH in assessing an application. However, if, during an inspection of the property triggered by a mutual exchange application, rechargeable repairs were identified, then it would be consistent with the proposed policy to recover those costs.
- 2.8 Naturally, situations may arise where recharges are inappropriate, and MDH officers are expected to use good judgement within the framework of the Policy. For example, a recharge may sometimes not be made where the tenant is a victim of domestic abuse, and the property damage was made by the perpetrator. Consideration of vulnerabilities, including mental health issues, will also be considered prior to the recovery of recharges.
- 2.9 In common with most landlords, MDH often identifies recharges during its inspection of properties following the termination of a tenancy. MDH will seek to recover costs that are the former tenant's responsibility, for example, damage to fixtures and fittings, removal of rubbish and belongings, or making good alterations done without MDH consent. Following the death of a tenant, the recovery of costs is from the deceased tenant's estate. This will be dealt with sensitively and appropriately by MDH.

- 2.10 The revision of the existing policy also includes further definition of responsibilities to ensure that all stakeholders are clear about accountabilities.
- 2.11 There are no other materially relevant changes to the policy.

3 Consultation

- 3.1 The draft policy was sent to the following partner charity organisations for comment between 1st August and 31st August 2023:
- Citizens Advice (Torridge, North, Mid and West Devon)
 - Navigate (Somerset/Devon community social isolation and financial hardship)
 - CHAT (Churches Housing Action Team Mid Devon)
- 3.2 Tenants were invited to comment on the draft policy between 4th August and 31st August 2023
- 3.3 Members of the Homes PDG were invited to comment on the draft policy between 9th August and 31st August 2023.
- 3.4 No comments or concerns were received from either tenants, partners or members.
- 3.5 Despite a lack of response to consultation, it is important that tenants are fully aware of the updated policy. To this end, should the policy be adopted, MDH will proactively signpost the policy on our webpages/Facebook pages and in the next tenant newsletter. Where relevant, particularly in relation to queries, service requests or complaints we will also ensure specific tenants or other stakeholders are made directly aware of the updated policy as required.

4 Historical Performance

- 4.1 The following results are from the pilot Tenant Satisfaction Survey completed in 2022 and provide some context around overall tenant satisfaction and that more specifically related to repairs or other matters relevant to recharges:
- TP01 – Overall Satisfaction – 70%
 - TP02 – Satisfaction with Repairs – 69%
 - TP08 - Agreement that the landlord treats tenants fairly and with respect – 66%
- 4.2 To provide further context, a total of £61,702 was billed for recharges in 2022/2023. These were categorised as follows:
- Voids 42 totalling £42,234.67 average charge £1,005.59

- Non-voids 66 totalling 7,842.51 average charge £118.83
- Handyman charges 45 totalling £9,024.83 average charge £200.56
- Missed calls (scheduled appointments with no access) 130 totalling £2,600.00 average charge £20.00

4.3 Of the £61,702 billed in 2022/2023, £18,607 has so far been collected (30.1%).

4.4 With high proportion of recharges being associated with voids, this is a uniquely challenging collection environment where we are seeking to secure payments from tenants or former tenants where one (or often several) of the following circumstances may apply

- Vulnerable adults with very low income
- Possession proceedings are occurring (often as part of a wider rent debt and other tenancy compliance issues)
- Tenants have moved to an unknown address and/or may have left without notice
- Where the debt rests with the limited estate of a deceased tenant

There are further issues where individual debts are very small and therefore not viable to recover (for example missed calls).

4.5 As a discretionary service, we reserve to right to withdraw access to the Handyman scheme where there is a debt against a previously provided service.

4.6 Consequently, there are historic debts which remain live in order to secure maximum opportunity for recovery, though these will, at the appropriate stage, be written off in accordance with MDH and Corporate income and recovery policies. As at 31/03/2023, there was an overall debt of £137,866 outstanding in respect of recharges where a level of recovery is secured year on year as set out above. To provide some context, this is less than 1% of the overall Housing Revenue Account.

5 Recommendations

5.1 In accordance with the above:

1. That the PDG recommends that Cabinet adopt the updated MDH Recharges Policy and Equality Impact Assessment contained in Annexes A and B respectively.

Financial Implications

The financial implications are contained within the Housing Revenue Account (HRA) and are summarised in the body of the report. It is important to prioritise financial management of this account to ensure the all available funds are available and are used to the best possible effect.

Legal Implications

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.

This overarching framework consequently sets the legal standards for the compliance and performance required of MDH. Under legal changes introduced by the landmark Social Housing (Regulation) Act 2023, the RSH also now holds substantial new powers to intervene where failures to meet standards have caused, or could have caused, serious harm to tenants and/or where we have failed to put tenants at the heart of the service we provide. Overall, this significant change in the regulation of social housing brings forward the following changes which the Council must be mindful of when making policy decisions that impact our tenants.

- Strengthening of the RSH to carry out regular inspections of the largest social housing providers and the power to issue unlimited fines to rogue social landlords
- Additional Housing Ombudsman powers to publish best practice guidance to landlords following investigations into tenant complaints
- Powers to set strict time limits for social landlords to address hazards such as damp and mould
- New qualification requirements for social housing managers
- Introducing stronger economic powers to follow inappropriate money transactions outside of the sector

Risk Assessment

Failure to have an adequate Recharges Policy in place will mean the HRA is unable to effectively and consistently recover revenue to which it is due in a way that is transparent and fair. It will also mean there is insufficient clarity of the respective responsibilities of tenant and MDH (as the landlord) where it comes to chargeable services. This may undermine the position of the tenant and/or weaken the position of MDH overall in terms of effective tenancy management and a positive tenant/landlord relationship. In turn, this may result in below benchmark tenant satisfaction scores in the TSMs as set out above. Therefore, not-having an effective Recharges Policy may result in MDH being non-compliant with statutory provisions regulated by the RSH and failing in its duties.

The enhanced powers of the RSH to intervene where RPs are failing in its duties or performing poorly are set out in the legal implications above. Under these new powers, the RSH will be able to impose performance improvements and potentially fine registered providers where performance is poor and/or adequate assurance is not provided.

Additionally, a failure to collect all income could impact the ability to fund necessary management and maintenance activities and/or the delivery of new housing into the MDH stock, although this risk is reduced by the relatively low level of recharges against the overall HRA.

Impact on Climate Change

The MDH Recharge Policy does not have any direct impact on the Council's Climate Change ambitions or specific carbon reduction targets.

Equalities Impact Assessment

The recharges policy sets out to ensure a careful balancing act is retained where there is compliance with Homes Standard and an approach which set out a fair and transparent approach to recharges. Consequently, that this approach is equitable to all tenants yet recognises there will be exceptional circumstances within individual cases where recovery of a debt is either not appropriate or not practical.

Furthermore, MDH 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. Older tenants may find it difficult to maintain their gardens and the Neighbourhood team will endeavour to signpost those affected to voluntary organisations which may be able to provide help and will manage issues accordingly.

The full Equalities Impact Assessment of this specific policy update is attached to this report in Annex B.

Relationship to Corporate Plan

This policy is a regulatory requirement of MDH and does not directly align with any of the specific current Corporate Plan targets. However, it is consistent with one of the overarching aims of the Plan which is to have sustainable and prosperous communities.

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 Leburne

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: 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: Angela Haigh, Housing Finance and Performance Manager or Simon Newcombe, Corporate Manager for Public Health, Regulation and Housing

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Background papers:

Current Recharges Policy September 2018

<https://www.middevon.gov.uk/media/201718/recharges-policy-v32-september-2018.pdf>