

**Report for: Homes Policy Development Group**

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Date of Meeting:	26 <sup>th</sup> September 2023
Subject:	<b>MID DEVON HOUSING DAMP AND MOULD POLICY</b>
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 8<sup>th</sup> 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.

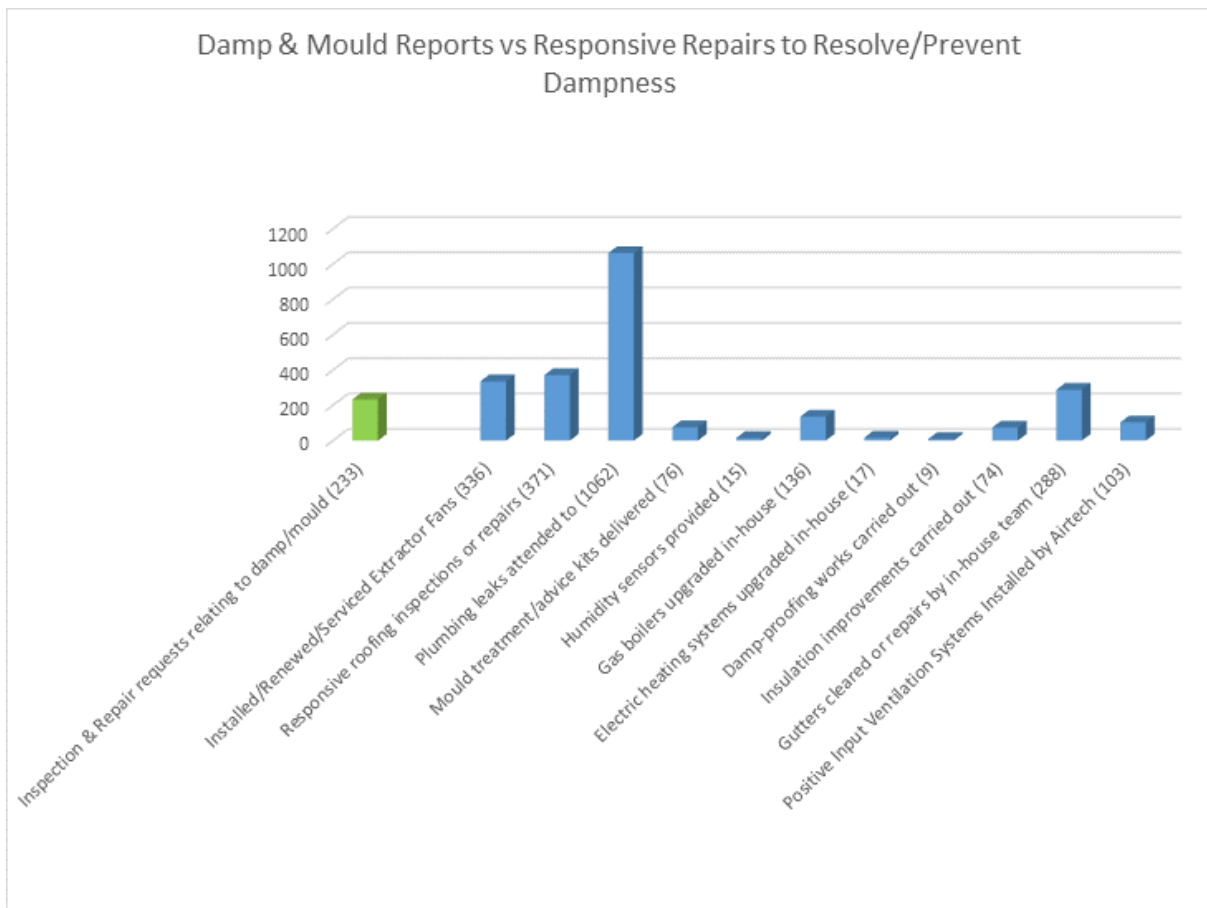
### **3 Historic Performance**

- 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 5<sup>th</sup> June and 17<sup>th</sup> 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.

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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://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>