

Report for: Cabinet

Date of Meeting:	6 February 2024
Subject:	NEW MID DEVON HOUSING HOMES SAFETY 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:	None
Wards Affected:	All Wards
Enclosures:	Annex A – Homes Safety Policy Annex B – Homes Safety Policy Equality Impact Assessment (EIA)

Section 1 – Summary and Recommendation(s)

The Regulator of Social Housing is due to introduce a revised set of consumer standards as part of the new consumer regulatory framework by April 2024. The Safety and Quality Standard will replace the Home Standard and requires landlords to provide safe and good quality homes and landlord services to tenants.

The draft consumer standards code of practice states that registered providers must ensure they understand and comply with all applicable health and safety legal requirements, including secondary legislation (in relation to, for example, gas safety, fire safety, electrical safety, water safety, lift safety, asbestos safety, smoke alarms and carbon monoxide). In ensuring compliance, registered providers are expected to have regard to appropriate statutory guidance and to meet the legal requirements relating to the role of the health and safety lead. Mid Devon Housing (MDH) have drafted a new overarching Homes Safety Policy to reflect these new requirements in preparation for the new legal framework.

Recommendation:

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

Section 2 – Report

1 Introduction

- 1.1 Under the proposed Safety and Quality Standard, The Regulator of Social Housing (RSH) requires all registered providers (RPs) to provide safe and good quality homes and landlord services to tenants.
- 1.2 The Regulator of Social Housing regard councillors as responsible for ensuring that providers' businesses are managed effectively and that providers comply with all regulatory requirements. Consequently, it is important that councillors approve the relevant policy approaches adopted by MDH.
- 1.3 Social Housing (Regulation) Act 2023 (the 'Act') has received Royal Assent, meaning the bill has now been enacted into law. 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.
- 1.4 The Act details the requirement for registered providers to appoint a health and safety lead and registered providers are expected to have regard to appropriate statutory guidance and to meet the legal requirements relating to the role of the health and safety lead.
- 1.5 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 deal with promptly and fairly (Chapter 3)
 - To have a good quality home and neighbourhood to live in (Chapter 6)
- 1.6 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.

1.7 The TSMs associated with this Policy are:

- BS01 – Gas Safety Checks - This measure is based on the percentage of homes that have had all the necessary gas safety checks
- BS02 – Fire Safety Checks - This measure is based on the percentage of homes in buildings that have had all the necessary fire risk assessments
- BS03 – Asbestos Safety Checks - This measure is based on the percentage of homes in buildings that have had all the necessary asbestos management surveys or re-inspections
- BS04 - Water Safety Checks - This measure is based on the percentage of homes that have had all the necessary legionella risk assessments (legionella is a bacteria that can make people ill if it enters water supplies)
- BS05 - Lift Safety Checks - This measure is based on the percentage of homes in buildings where the communal passenger lifts have had all the necessary safety checks

1.8 The annual reporting of performance against the above TSMs is therefore due from April 2024 for 2023/24.

2 Home Safety Policy

2.1 In order to comply with the Safety and Quality Standard MDH are required to comply with all health and safety legal requirements including secondary legislation.

2.2 The main aim of the Policy is to set out how MDH will manage the safety of our homes and fulfil all the statutory duties associated with safety that are required of us.

2.2 Existing MDH Safety Policies consisted of a Gas Safety Checks Policy and a Fire Safety in Communal Areas Policy. There were no specific policies relating to Electrical Safety Checks, Asbestos Safety Checks, Water Safety Checks or Lift Safety Checks as required by the Safety and Quality Standard going forward.

2.3 A full review of the existing policies was undertaken and officers felt it sensible to produce an overall Homes Safety Policy which included all the RSH requirements. Also included, although not specified by the RSH, is a solid fuel safety policy as MDH do have a small number of properties which contain solid fuel heating with relevant secondary safety legislation. This provides an enhanced level of clarity and ease of access to information relating to the overarching safety of our housing stock.

2.4 The new policy also includes details of the role of the Health and Safety Lead which is a requirement of the Social Housing (Regulation) Act 2023. More information on this is provided under Legal Implications below.

BS05 - % of Lift Safety Checks	100%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%
% of Electrical Checks		43%	43%	43%	42%	42%	42%	42%

Commentary on the results:

5.2 Asbestos Safety Checks

A management survey can, but does not always require a sample of a suspected asbestos containing material (ACM) to be taken; however the only way to 100% determine if a material contains asbestos is to take a sample and have this analysed. MDH want to be able to provide more accurate information so are only reporting on the number of properties where we have a management survey that has included samples.

Overall, we still hold a current asbestos register for all properties in our stock which adopts a no-risk approach and makes conservative assumptions on the presence of ACM based on property design and age in specific areas of each building which may subsequently be confirmed or otherwise through sampling where the register will then be updated. This enables our tenants, staff and contractors to stay safe at all times and approach any works with the appropriate level of caution and risk management.

Where MDH do not have samples of an ACM that we want to work on then the suspected material is sampled and analysed. To avoid any doubling up on surveys, for a number of years we have been asking for management surveys with samples or sampling where required due to a more detailed refurbishment and demolition survey, which is only used for intrusive works, such as new kitchens and bathrooms.

As we modernise properties and/or undertake works during property void periods this will therefore result in ACM being removed from properties even where there is no specific safety reason for doing so (i.e. the ACM is safe and in good condition) and the register is updated accordingly.

Overall, this is a proactive risk-reduction approach where we can remove some properties completely from the register or reduce the scope of the register entry where some material is removed or it is confirmed as not being ACM.

The reason for the drop in the number of surveys for August and September relates to some cross checking of information relating to the refurbishment and demolition surveys.

5.3 Electrical Safety Checks

Historically MDH carried out a Visual Inspection Report (VIR) every 5 years and an Electrical Installation Condition Report (EICR) every 10 years which is in line with current regulations as Social Housing is currently exempt from The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, and we reported compliance on these figures.

But we are expecting that Social Rent properties will be brought in line with these regulations soon with a minimum five-year transition period. 'Housemark' nationally have changed the way we report with them already and are only recording EICRs.

As an EICR needs to be carried out every 5 years it would not be sensible to do lots at once we need to spread them out over a 5 year period which will equate to around 600 a year going forward, so in reality at the end of this year we will need to be around 50 % and then 60% next year and so on. This will ensure we are fully compliant at the end of the transition period.

6 Safeguarding and vulnerable tenants

- 6.1 MDH records details of all vulnerable tenants in able to support their needs. This includes making reasonable adjustments when we interact with vulnerable tenants to ensure that they are comfortable.
- 6.2 When a safety check is required MDH ensures that the tenant is communicated with by their preferred channel and that they understand the importance of allowing access to their home to complete the check.
- 6.3 Whilst repairs officers and contractors attend homes to specifically carry out a safety check any tenants observed who appear vulnerable or if there are safeguarding concerns will be reported to the Neighbourhood Officer. The Neighbourhood Officer will then contact the tenant to establish if they need additional support to be able to sustain their tenancies.
- 6.4 Further information on the equality impacts arising from this policy are set out under Equalities Impact Assessment below and in the full EIA attached in Annex B.

7 Recommendation

- 7.1 In accordance with the above, the following recommendation is made:
 - 1. That the PDG recommends that Cabinet recommends to Council that the MDH Homes Safety Policy and Equality Impact Assessment contained in Annexes A and B respectively be adopted.

Financial Implications

This report on its own does not give rise to any direct financial implication but implementation of the activities set out in the policy and overall compliance with safety legislation must be budgeted for.

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

The Council's HRA revenue and capital budget/MTFP 2023-28 supports the activities required to maintain the Council's housing stock safely.

More information on financial implications is provided as part of the overall risk assessment below.

Legal Implications

The Council is an RP and therefore is required to comply with the regulatory framework operated by the RSH.

The policy ensures that MDH fully complies with its statutory obligations and that the safety of its residents is safeguarded including provisions set out in the draft new Safety and Quality Standard.

The policies, management plans and procedures form a key part of an overall assurance framework for MDH in discharging its statutory duties associated with landlord compliance. Failure to comply with these duties could result in formal prosecution being brought against MDH as a landlord e.g. potential of a corporate manslaughter case for the most serious of breaches.

Under section 126A and 126B of the Social Housing (Regulation) Act 2023, as an RP, MDH must designate a senior leadership individual with specific accountability for the health and safety of its tenants in our homes. The person holding this statutory role must be notified to the RSH and be visible to our tenants. They must be of sufficient authority to put in place mechanisms to have oversight of the housing service overall and monitor and assess health and safety risks then allocate resources to ensure compliance at all times. This policy and its delivery provides a key part of this assurance and implementation regulations for this part of the Act are expected shortly.

Risk Assessment

The Council has approximately 3,000 homes in management and the performance of MDH impacts upon the lives of many thousands of tenants and their families. This represents a huge responsibility and investment, consequently a major area of risk. Not providing an effective housing management service has the potential to result in failure to meet legal and statutory obligations including those relating to health and safety issues.

There are several main risks associated with this policy specifically:

Firstly, that staff are not adequately trained and/or effective working practices are not sufficient in scope or implementation to ensure compliance. This is mitigated through the provision of post by post specific competency requirements matched to legal compliance alongside internal management plans which provide staff and contractors with clear instructions on how to comply with the policy.

Secondly, that information on policy implementation and core compliance is not available. This has been addressed through the implementation of the new MDH performance hub which has updated KPIs specific to all aspects of health and safety compliance. These KPIs are reviewed internally through monthly performance meetings with service Operational and Team leads where any actions required are identified, allocated and reviewed for completion. Actions may include; provision of additional resourcing, further staff training, contract performance reviews or procedural updates. There is wider public reporting on compliance through our website and the quarterly service delivery reports provided to the PDG. Several of the new,

mandated Tenant Satisfaction Measures (TSMs) also require health and safety performance to be reported to both RSH and tenants (more information is provided in Section 1.6 and 1.7 of this report).

Thirdly, that key health and safety activity is not adequately resourced by the HRA to ensure rolling compliance and to address any potential gaps or risks. This is addressed through the MTFP which has been reviewed going forward to ensure adequate budget is in place with additional provision to meet known current and future requirements. As the performance information is reviewed and as requirements are updated then the MTFP will be updated through the annual budget cycle. Furthermore, there are adequate HRA reserves to deal with an unplanned, urgent works as may be required.

Finally, that tenants and leaseholders are not aware of the risks. These risks are mitigated by tracking our performance against targets which are published for tenants including the new TSMs from April 2024 and by regular campaigns on health and safety. In addition, our frontline teams in all areas are trained to be aware of relevant risks and how to log and report these internally as they be directly or indirectly captured as part of their wider duties.

Impact on Climate Change

The correct functioning of gas and electrical systems reduce the impact of the systems on the environment through efficient operation. Having good knowledge of the condition of our systems allows planning for their replacement when appropriate times with more efficient upgrades that benefit the environment and our tenants.

Equalities Impact Assessment

MDH has a collection of housing related policies. These help to ensure that service delivery is consistent and fair. These are currently being reviewed with the aim of aligning them more closely with the Regulatory Standards.

Furthermore, there is a regulatory requirement for registered providers of social housing to tailor their services to meet the needs of tenants. MDH collects data on the diversity of tenants and endeavours to tailor services to meet the needs of all tenants and to enable compliance to be monitored.

Our housing estates must be accessible to those with disabilities and we have in place a regular schedule of inspections to ensure that all safety issues are identified and rectified as soon as possible and we have specific policy, procedures and budget to provide tenant-specific aids and adaptations where required.

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 Housing Ombudsman Service Complaints Handling Code which MDH adhere to also requires landlords to have an awareness of accessibility so residents are easily be able to access the complaints procedure via several routes.

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

Relationship to Corporate Plan

This policy relates to statutory requirements on 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: 05 January 2024

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 03 January 2024

Chief Officer: Simon Newcombe

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

Date: 14 December 2023

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 03 January 2024

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 Manager for Building Services

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Background papers and further information:

Current MDH Gas Safety and Fire Risk in Communal Area's Policies

<https://www.middevon.gov.uk/media/348656/gas-safety-policy-2018.pdf>

<https://www.middevon.gov.uk/media/344294/mddc-fire-risk-in-communal-areas-policy.pdf>

Proposed Safety and Quality Standard

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1173042/20230721_Annex_1_Proposed_Consumer_standards.pdf

Social Housing (Regulation) Act 2023

<https://www.legislation.gov.uk/ukpga/2023/36/contents>