

**Report for: Homes Policy Development Group**

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Date of Meeting: 11 June 2024

Subject: **AMENDMENTS TO MID DEVON HOUSING (MDH) HOME SAFETY POLICY**

Cabinet Member: Cllr Simon Clist Cabinet Member for Housing and Property

Responsible Officer: Simon Newcombe – Head of Housing and Health

Exempt: None

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: None

**Section 1 – Summary and Recommendation(s)**

The MDH Homes Safety Policy was adopted by Council on 21<sup>st</sup> February 2024 after recommendation by Homes PDG and Cabinet (see link to the full policy in Background Papers). There is now a requirement to add a further clause to the Policy stating that Bioethanol fires/space heaters are not permitted to be used in MDH stock.

Furthermore, since the policy was drafted, the Government White Paper on regulatory reform in the sector has also been implemented with new legislation where it is beneficial to reflect this an additional Policy amendment. Finally, internal structure changes and job titles relevant to overarching health and safety duty under the new housing legislation have been confirmed which should also be reflected in an amendment to the Policy.

## **Recommendation:**

**That the PDG recommends that Cabinet adopt the amended Policy as set out in section 1.6, 1.10 and 1.15 within the report.**

## **Section 2 – Report**

### **1 Policy amendments**

#### **Bioethanol fires/space heaters**

- 1.1 Bioethanol fires/space heaters can be a good solution for some but they are not currently regulated for installation. Unfortunately, if they are not installed correctly they can be hazardous and pose a danger to tenants and to our stock.
- 1.2 Furthermore, Bioethanol fuel is highly flammable, cannot be extinguished by water and, where water or water based extinguishers are used in the home by the tenant, this may inadvertently worsen the fire risk to occupants and neighbouring properties.
- 1.3 The use of these appliance requires minimum room size requirements due to carbon dioxide release. These requirements are not widely understood or always assessed correctly.
- 1.4 There are further risks associated by proximity to non-heat resistant materials.
- 1.5 MDH therefore do not advocate the use of these appliances however have recently identified use by tenants. The policy position on their use requires additional clarity and strengthening.
- 1.6 The following Policy changes are therefore proposed:
  - Change Policy Section 13 heading to ‘*Solid Fuel and Bioethanol Heaters*’
  - Insert new clause 13. 7 – ‘*For safety reasons, MDH will not give permission for Bioethanol appliances to be installed and where they are found in properties we will request that they are removed*’.
- 1.7 Informing tenants - if the amendment is approved MDH will utilise its tenant involvement and engagement team run a specific campaign to make all tenants aware of the risks and the new prohibition. This will work across multiple channels and different mechanisms to ensure maximum awareness.

#### **Legislative changes**

- 1.8 The proposed statutory Safety and Quality standard (one of four consumer standards published by the Regulator of Social Housing) has now been finalised and is no longer a draft document.
- 1.9 With the Social Housing (Regulation) Act 2023 gaining Royal Assent and a number of provisions having been implemented on 1 April 2024 then legislative

references within the policy requirement amendment and a clause referencing the Social Housing White Paper is no longer valid.

1.10 The following Policy changes are therefore proposed:

- Update all Policy references to '*Social Housing (Regulation) Act 2024*' where applicable.
- Delete clause 3.5 entirely to remove reference to the Social Housing White Paper and renumber subsequent clauses within the section as required

### **Appointment of designated Health and Safety lead by registered providers**

1.11 Section 10 of the Social Housing (Regulation) Act 2023 requires registered providers of social housing such as MDH to appoint an executive level employee to hold an overarching duty regarding the safety of their properties and tenants.

1.12 This person must be notified to both the Regulator of Social Housing and our tenants by June 2024 (completed). The duty is specific to MDH properties only (i.e. does not cover general fund buildings and assets) and covers all health and safety risks, for example – fire, gas, electrical, asbestos and legionella safety alongside all other category one hazards defined under the government's Housing Health and Safety Rating System (HHSRS). This person will further appoint technically competent, responsible persons to ensure appropriate assessments and appropriate practice is put in place day to day.

1.13 This requirement came into force on 1 April 2024 and whilst the general provision is reflected in Section 5 of the current Policy, the duty holder should be set out clearly within the Policy once appointed internally. This appointment has now been confirmed and forms part of the key accountabilities of the Head of Housing and Health.

1.14 The current Policy specifically reflects current corporate health and safety policy regarding roles that are no longer the duty holders for legionella/water safety in the housing stock and these references should be removed. The corporate health and safety policy provisions will also need to be updated separately through the Health and Safety Committee for consistency and to reflect updated duty holders regarding non-housing property and assets.

1.15 The following Policy changes are therefore proposed:

- Add clause 5.4 – '*The appointed Designated Health and Safety Lead for MDH under this legislation is the Head of Housing and Health*'.
- Delete clause 11.6 to remove references to the previous corporate legionella duty holder and strategic lead. Retain reference to a Responsible Person and duties but delete previous role and refer to '*Role appointed by Designated Health and Safety Lead*'. Renumber subsequent clauses within the section as required

## **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 will have cost implications.

However, these 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 2024-28 supports the activities required to maintain the Council's housing stock.

## **Legal Implications**

The policy ensures that MDH fully complies with its statutory obligations and that the safety of its residents is safeguarded. The policies, management plans and procedures assist 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.

## **Risk Assessment**

The biggest risk is that the policies are not embedded in working practices or that tenants and leaseholders are not aware of the risks. These risks are mitigated by tracking our performance against targets, by regular campaigns on health and safety and by the internal management plans which provide staff and contractors with clear instructions on how to comply with the policy.

## **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**

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 safety issues 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.

An equality impact assessment (EIA) was recently completed as part of the original Policy adoption. None of the relatively minor, largely legislative changes being proposed here require the EIA to be updated or impact on any protected characteristics in any way.

## **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:** Paul Deal

Agreed by or on behalf of the Section 151

**Date:** 31 May 2024

**Statutory Officer:** Maria De Leiburne

Agreed on behalf of the Monitoring Officer

**Date:** 31 May 2024

**Chief Officer:** Simon Newcombe

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

**Date:** 13 May 2024

**Performance and risk:** Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

**Date:** 22/05/2024

**Cabinet member notified:** Yes

## **Section 4 - Contact Details and Background Papers**

**Contact:** Simon Newcombe, Head of Housing and Health or Mike Lowman, Operations Manager for Building Services

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**Background papers:**

<https://www.middevon.gov.uk/media/355792/homes-safety-policy-v10-final.pdf>