

Report for: Cabinet

Date of Meeting:	15 October 2024
Subject:	REVIEW OF MID DEVON HOUSING ASBESTOS MANAGEMENT PLAN
Cabinet Member:	Cllr Simon Clist Cabinet Member for Housing, Assets and Property and Deputy Leader
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:	Annex A – Asbestos Management Plan

Section 1 – Summary and Recommendation(s)

Mid Devon Housing (MDH) has a legal requirement to maintain health and safety and have an up to date Asbestos Management Plan. Recent changes to statutory consumer regulation standards produced the Regulator of Social Housing (RSH) impose reporting and other changes which require the plan to updated.

Recommendation:

That the updated MDH Asbestos Management Plan be adopted as recommended by Homes PDG.

Section 2 – Report

1 Introduction

1.1 Mid Devon Housing (MDH) has a legal duty to manage the Asbestos Containing Materials (ACMs) within its housing stock. This duty is placed on it by the

Control of Asbestos Regulations 2012 as well as the Health and Safety at Work etc Act 1974, The Construction Design and Management Regulations 2015 (CDM) and The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).

- 1.2 Furthermore, the statutory RSH Safety and Quality Standard published under the requirements of the Social Housing (Regulation) Act 2023 sets out an overarching duty where providing safe and well-maintained homes is a fundamental responsibility of all registered providers. This legislation also introduced a suite of new, mandatory Tenant Satisfaction Measures (TSMs) with 12 performance data metrics including:
 - BS03: Asbestos Safety Checks
- 1.3 Under the BS03 TSM, there is a new statutory definition and a prescribed calculation method for asbestos surveys/inspections and further requirements as set out in the TSM Technical Requirements document as published by the RSH in April 2023 (updated April 2024) – see background papers for a link to this document.
- 1.4 Section 10 of the Social Housing (Regulation) Act 2023 also 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.
- 1.5 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. This person will further appoint technically competent, responsible persons to ensure appropriate assessments and appropriate practice is put in place day to day.
- 1.6 This requirement came into force on 1 April 2024 and whilst the general provision is reflected in current Asbestos Management Plan, the duty holder should be set out clearly within the Plan once appointed internally. This appointment has now been confirmed and forms part of the key accountabilities of the Head of Housing and Health.
- 1.7 These changes requirement to update the Asbestos Management Plan to ensure there full alignment across our asbestos reporting and appointed persons accountabilities. This alignment is addressed in the updated Asbestos Management Plan attached in Annex A.
- 1.8 Under housing legislation including the Social Housing (Regulation) Act 2023, the RSH take co-regulatory approach. In the context of a local authority registered provider such as MDH this means:

- councillors are regarded as responsible for ensuring that providers' businesses are managed effectively and that providers comply with all regulatory requirements
- providers must support tenants to shape and scrutinise service delivery and to hold officers and councillors to account

This is important context in the determination and adoption of new or updated policy or plans and monitoring of compliance and performance.

2 Consultation and Review

- 2.1 As an internal, building safety management plan setting out how legal requirements on the management of asbestos will be met there is no requirement for tenant consultation. Nonetheless, having an up to date Asbestos Management Plan provides assurance to tenants and members (through co-regulation) that we are meeting our legal duties and ensuring the health, safety and wellbeing of tenants in our properties.
- 2.2 The Plan will be kept under continuous review against legislative requirements and statutory best practice to ensure it remains fit for purpose. The Head of Housing and Health also holds delegated authority to make minor amendments to the Plan as required by legislative changes, formal guidance or local operational considerations.
- 2.3 Where material or significant amendments are required the plan will receive a full review and will be brought back to the Homes PDG and Cabinet for consideration.

3 Recommendation

- 3.1 In accordance with the above, the following recommendation is made:
 - That the PDG recommends to Cabinet that the updated MDH Asbestos Management Plan be adopted

Financial Implications

The Housing Revenue Account (HRA) budget for the works contained within the plan is up to £170,000.00 per annum. These works will result in enhanced Health and Safety by providing a higher level of understanding relating to where ASMs are and a lower cost in the coming years as measures are taken to remove the ACMs in the most cost effective way.

Legal Implications

As a registered provider (RP) of social housing, the Council is obliged to take account of the standards contained within the revised regulatory framework which is administered by the Regulator of Social Housing (RSH) as well as The Health and Safety at Work Act 1974, The Control of Asbestos Regulations 2012, The Construction Design and Management Regulations 2015 (CDM), The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR). This places a duty on

MDH to manage the ACMs within its housing stock and the duty when working with asbestos.

There are further overarching legal responsibilities under the new consumer regulation regime regulated by the RSH as set out in the main body of the report.

Risk Assessment

The principal risk is failing to limit costs due to additional works and delivery of the programme within the plan. The performance of the plan will be monitored monthly and corrective action will be taken where performance falls below Key Performance Indicator

Impact on Climate Change

The environmental impact has been considered as a part of the developing the plan.

Equalities Impact Assessment

All staff have received Equality and Diversity awareness training.

Relationship to Corporate Plan

To contribute towards meeting our obligations relating to Health and Safety and by contributing to the Decent Homes Standard.

Homes are a priority for the Council and in the context this Plan this includes supporting the delivery of several key objectives including ensuring our tenants feel safe, secure and happy in our homes.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151

Date: 29 August 2024

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 29 August 2024

Chief Officer: Simon Newcombe

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

Date: 21 August 2024

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 22 August 2024

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

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

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Background papers:

[TSM Technical Requirements \(publishing.service.gov.uk\)](http://publishing.service.gov.uk)