

Audit Committee - 3rd December - Public Questions and Answers

Name of person submitting	Questions
Paul Elstone	<p><u>Question 1</u></p> <p>The Bishop Fleming Audit Report states that it was a formula error that caused the social rent over or underpayment problems.</p> <p>The housing rental formula mentioned is quite simple and with few variable inputs and even less variables that could cause both over and under charge errors.</p> <p>What and precisely was the formula error (property valuations, bedroom weight factors how service cost were provisioned) or something else?</p> <p>Response from the Chair of the Audit Committee</p> <p>There are three main variables within the formula rent calculation: number of bedrooms, relative property value (as at January 1999) and relative earnings (which are prescribed by Government). Within the relative property value element, an error was made whereby an average house price for Mid-Devon was applied instead of an individual house price.</p> <p><u>Question 2</u></p> <p>The report also states that the repayments to tenants will only be made going back 6 years given “<i>Statutory Limitations</i>” this despite some tenants may have been overpaying rent for up to 23 years.</p> <p>Very precisely what legislation is being used as this Councils point of reference, this to justify not making full rent refunds to its tenants?</p>

Response from the Chair of the Audit Committee

Sections 5 and 32 of the Limitation Act 1980

Question 3

On investigating both Government and Social Housing Regulator documents there have been several documents published over the years that should have caused MDDC to conduct a comprehensive audit of its social housing rental calculations.

Its auditors should have been aware and similarly undertaken those checks. This including in March 2020 when the Social Housing Regulator issued a report referencing concerns and risk incurred about incorrect social rental payment calculations. The report referenced expectations of Officers and Members with regards to good governance including policy requirements

Additionally in April 2020 and updated in December 2022 a joint Policy Statement on rents for Social Housing was issued involving Government Departments and the Social Housing Regulator. A comprehensive but easy to read document.

Given the concerns raised in these and other documents there is reason to believe there has been negligence involved in not correcting the rent over payments much earlier.

Has this Council given full consideration to the fact that there could be a case for those tenants impacted to seek full recompense including damages and that certain specialist legal firms such as Leigh Day could become involved with massive cost and reputation implications?

Response from the Chair of the Audit Committee

The Council has fully considered its position. This has been shaped by securing external legal advice, speaking to other Councils and Housing Associations who have had similar experiences and by sharing our recovery plans with the housing regulator (Regulator of Social Housing, RSH), the DWP and its external auditors. As the Housing Revenue Account is a legally ring fenced account any revision to the refund quantum will have a direct impact on its financial position, which may then impact on future maintenance programmes, enhancements, statutory safety

work/improvements and new development/additions. These programmes are critical to our ongoing assurance to the RSH regarding compliance with the current consumer regulation regime for social housing and meeting the broad requirements of the relevant statutory consumer standards in full. This regime is in place to protect the health, safety and wellbeing of current and future tenants.

Question 4

Given this situation there would seem good reason for MDDC's internal auditors Devon Assurance Partnership and external auditors Grant Thornton to refer themselves to their regulator i.e. the Financial Reporting Council. Has this been done?

Response from the Chair of the Audit Committee

The Council is not aware of any professional referrals being made. Clearly it will be a matter for these organisations to consider.

Question 5

Given there could be a case of professional negligence will MDDC look into if a financial claim can be made against its auditors. This to recover cost?

Response from the Chair of the Audit Committee

Based on the likelihood of a successful outcome it is currently not our intention to pursue this course of action.

Question 6

Will tenants be given a complete breakdown showing the full details of all the overpayments they have made to this Council not just the amount the Council wants to refund?

Response from the Chair of the Audit Committee

Once these complex calculations are performed the Council will provide information to support all refunds that are made. This will include assistance to all tenants, especially our most vulnerable, in order to help them navigate this process.

Question 7

Will notional interest be paid to the tenants?

Response from the Chair of the Audit Committee

The Council will consider any enhancement to these refunds against the existing policies that we have in place.