

Report for:

HOMES POLICY DEVELOPMENT GROUP

Date of Meeting:

9th September 2025

Subject:

MID DEVON HOUSING RENT ERROR UPDATE

Cabinet Member:

Councillor Jane Lock, Cabinet Member for Housing, Assets and Property Services. Councillor John Downes, Cabinet Member for Governance, Finance and Risk

Responsible Officer:

Andrew Jarrett, Deputy Chief Executive (S151) and Simon Newcombe, Head of Housing and Health

Exempt:

None

Wards Affected:

All wards

Enclosures:

None

Section 1 – Summary and Recommendation(s)

This report provides an update on the corrective measures completed and next steps in order to rectify an identified historic rent setting error.

Recommendation(s):

1. That Homes PDG notes the report.

Section 2 – Report

1 Introduction

- 1.1 Members will have noted the Housing Rents report provided to Cabinet in December 2024 setting out the background to the historic tenants' rent error.
- 1.2 The Cabinet report set out that during the first year's audit with our new incumbent auditor, Bishop Fleming, it was identified that one integral part of a historic formula used to calculate tenants' rents had been incorrectly

applied. This has resulted in all tenants' rents being incorrectly set for a number of years.

- 1.3 A number of years ago the Government introduced a national 'formula' for the calculation of social housing rents. This required housing providers, such as the Council, to apply a number of factors to calculate housing rents in its area for different sized properties. Within this formula were valuations for our properties where the Council incorrectly averaged some of our data, resulting in the wrong base rent being set at the time and the historic over or under charge situation has emerged as a legacy of that miscalculated valuation. Since this initial error, the Council has correctly applied further annual increases or decreases in its rent as set by the Government each year, but our rent base required recalculation so all rents are correct in future.
- 1.4 As soon as this isolated error was identified and evaluated we have self-referred ourselves to the Regulator for Social Housing (RSH) and have had discussions with: the RSH; the Department for Work & Pensions (DWP); Bishop Fleming (BF); the Devon Audit Partnership (DAP); the Valuation Office (VOA); and have secured an external legal opinion from a KC.
- 1.5 We have also set up a dedicated officer group in order to manage the recovery process and consider all aspects of how the corrections can be delivered in the most timely and effective manner, whilst considering any additional support our tenants may require during this process.
- 1.6 A further comprehensive update was provided to both the PDG and Scrutiny Committee in March 2025 followed by Cabinet in April 2025.

2 Corrective Actions

- 2.1 The December Cabinet report and subsequent updates set out a series of actions and decisions, which have been updated below to reflect progress since.

Table 1 - Actions taken, completed or ongoing

Actions	Date/Decisions
<i>Immediate</i>	
1 - Self-referral to RSH	17/9/24
2 - Set up weekly key officer recovery group (1)	19/9/24
3 - Contact DWP + other bodies (2)	14/10/24
4 - Confirm beacon values with VOA (3)	1/11/24
5 - Secure KC legal advice (4)	14/10/24
6 – Plan Communication strategy (5)	Ongoing
<i>Current and Next Steps</i>	
7 - Model over/under charges at summary level (6)	Completed
8 - Model aggregate potential impact on HRA (7)	Completed
9 - Detailed modelling of individual tenants positions	Completed

10 - Issue initial letters to tenants – split between over/unders	Completed
11 - Consider staff resourcing requirements	Completed
12 - Any new tenancies charged at corrected rates	Completed
13 - Correct current overcharged tenancies	Completed
14 - Issue refunds where applicable (8)	Completed
15 - Consider extra support to vulnerable tenants	Completed
16 - Design/agree new control process of updated rents	Completed
17 - External review of modelling and new controls (9)	Completed
18 - Provide RSH with additional information as requested	Completed (ongoing progress updates continue to be provided)
19 - Stand up dedicated officer technical working group (1)	Completed
20 - Agree and commence recruitment of additional resources into 18 (1)	Completed
21 - Review potential overcharged tenants compensation in-line with adopted HRA Tenant Compensation Policy	Completed
22 – Detailed engagement with other LAs currently working on similar rent error issues (e.g. Cambridge)	Completed
23 – Refunds issued to current tenants where no benefit implications	Commenced 11/07/25
24 – Complete Housing Benefits claims analysis and issue refunds to DWP for overpayment of benefit (Subsidy correction)	Commenced 04/08/25
25 – Commence detailed review of former rent arrears evictions (possession cases) where rent overpayment	Commenced 14/08/25
<i>Decisions</i>	
18 - Agree on quantum/period of correction (4)	Cabinet 10/12/24
19 - Leave undercharged tenancies unchanged (10)	Cabinet 10/12/24
20 - Approach to the review and mitigation of any former tenant evictions where accounts have been historically overcharged	Cabinet 01/04/25

Notes:

1 – group made up of officers from; housing, finance, legal, benefits, customer first, communications and regular updates provided to relevant Cabinet members. This initial group has now morphed into a dedicated, technical officer working group with a project tracker. Oversight is provided by LT and CMT (Andrew Jarrett, Dean Emery and Simon Newcombe). Additional resources have been agreed to support the ongoing work and this approach has been discussed with the RSH who in turn support this approach

2 – as referred to in para. 1.3 and other Councils and Housing Associations

3 – reaffirm all of our “beacon” housing values back to source data with the VOA

4 – to follow legal advice from KC to apply the statutory limitation of going back 6 years based on the aggregate financial quantum estimated.

5 – to include press releases, FAQs on the website and all other communications with our tenants and organisations that assist them (e.g. Churches House Action Trust (CHAT), CAB, Involve, Moneywise, etc).

- 6 – initial modelling at a gross exposure level (i.e. excluding Universal Credit, Housing Benefit, Council Tax Reduction, previous write offs, arrears, changes in tenancies, etc. Total value required for planning next steps
- 7 – assessment required to establish total financial quantum and how it could be financed and what impact it may have on future viability of the HRA.
- 8 – refunds are likely to be processed in tranches, focusing on current tenants. This will be fully communicated to our tenants.
- 9 – procuring external support from the Housing Quality Network (HQN) to review our correction strategy and any new processes/controls once finalised
- 10 – this position will only change upon a change in tenancy

RSH Regulatory Judgement April 2025 and follow-up engagement June 2025

- 2.2 The RSH issued its formal Regulatory Judgement in April 2025 following our responsive engagement and self-referral. Due to our accepted error in calculating the historic formula rent, the Council anticipated the formal Judgment which set out our significant failure to deliver the required outcomes of the Rent Standard.
- 2.3 Nonetheless, the Judgement emphasises that the Council has been transparent in its current approach and engaged constructively to address the issues that led to this situation. RSH have been furthermore supportive of the effective and efficient actions we have taken to date whereby all current tenancies are now set at the correct formula rent and we have made significant progress in commencing the process of refunding current tenants, reviewing historic evictions and addressing housing benefit overpayments, more detail on which is provided below.
- 2.3 Overall, no wider sanction was issued by the RSH in respect of this matter and the Judgement can be seen in full at:
[Mid Devon District Council \(18UD\) - Regulatory Judgement: 30 April 2025 - GOV.UK](#)
- 2.4 We continue to have proactive engagement with the RSH through regular meetings to provide continued assurance that we are meeting our action plan and delivering appropriate tenant redress. The first of these meetings post-judgement was in June 2025 whereby the Council provided detailed progress updates across a range of themes and actions as prescribed by the regulator:
 - Committee reports
 - Statistics and Management Information
 - Letters to tenants
 - Communications and website FAQs
 - DWP engagement update
 - Action Plan and tracker

This evidence was well received and fully met the ongoing engagement requirements of the RSH. The next meeting with them is scheduled in September 2025.

Key progress and activity since June 2025

- 2.5 Progress continues to be made at pace with dedicated resources in place in order to fully resolve the impact of this historic issue. Expanding upon the headline actions set out in Table 1 above, this progress includes:

Communications and support

- Ongoing letter communications with tenants
- Regular FAQ website updates
- Media releases and all member internal communications
- Prompt responses to individual queries and requests
- Continued signposting to support services (vulnerable persons) and working with individual designated advocates where relevant

Refunds to tenants (not in receipt of benefits)

- Commencement in July whereby 110 refunds have been calculated and information sent to tenants.
- As of mid-August, 76 tenants had completed and returned the required form with £119,362.35 in refund payments being made. These include a level of compensation in accordance with adopted policy and the Cabinet decision in April.
- All tenants in this group have received the following:
 - Explanatory letter with contact details for any queries
 - Full statement with a breakdown of gross and net refund (where there are historic or current rent arrears) and compensation
 - Acceptance form for return with signed confirmation they have not claimed relevant housing benefit or universal credit during the six-year period, confirmation of bank details and payments into specified account where there are joint tenants
 - Pre-paid envelope for return or option to hand deliver to Phoenix House
- Payments are made weekly where there are new payments to make. Where we become aware of a specific financial hardship in the household where the refund will be of benefit, emergency/same day payments are being made if the acceptance form and details have been completed.
- The housing team have undertaken several follow-up calls to those tenants who have not responded to date. Where we do have engagement then

common reasons for not responding include lost forms, forgotten to return or not reviewed the information provided.

Housing benefit overpayment refunds

- Two-thirds of historic Housing Benefit claims have been reprocessed against overpayments due to the incorrect rent (so called Subsidy claims). As a result 4 out of the 6 years have been completed leaving the oldest 2 years still in progress where it is anticipated these will be completed by the end of August.
- The vast majority of the housing benefit claimants did not have to make a personal contribution to their rent. Consequently, the main repayment is to the DWP who subsidise and refund local authorities for their housing benefit payments. However, for a small minority (less than 10%) whose incomes were above thresholds then a refund will also be due to them direct.
- To date, this equates to an in-year repayment to DWP of £354,610.84 across 1,931 individual claims and relevant to approximately 480 tenants in each year. In addition to this, for the 4 years calculated to date there will be a further £38,504 in potential gross repayments to tenants.
- All DWP and tenant repayments will be made shortly once the final 2 years have been calculated.

Review of historic evictions

- We have commenced work on the detailed review of historic evictions (possession cases) which involved an element of rent arrears. Of the initial 70 cases, these have been reduced to around half once cases involving historic rent underpayment had been removed.
- The housing team are currently reviewing these directly against the criteria and mitigating factors set out in the March report and subsequently approved by Cabinet.
- We anticipate completing the in-depth review of these cases by mid-September and to date, no cases have been identified where the rent error and potential overpayment amount is a relevant, material factor.

DWP update

- 2.10 Under the DWP's own rules they remain unable to share information on current and historic tenancies where Universal Credit (UC) claims have been made. As such, the Council have no certainty who had been a potential claimant at any point in their tenancy - thus we cannot apportion what is a tenant refund and

potentially DWP monies. There will need to be a legal change made by DWP to allow relevant information to be shared.

- 2.11 Furthermore, the DWP are not yet able to confirm how they will calculate any overpayment and agree a process for any UC repayments.
- 2.12 This is a national issue and the DWP have confirmed that matters around information sharing and incorrect rents continue to be raised at 'Treasury' level due to the complexity of the problem and circa 20 Councils are flagging similar rent issues with them. Local DWP officers have been very supportive and we have held a meeting with senior DWP officers at a national level to discuss the issue and press for an expedient national solution.
- 2.13 To date, no further information has been forthcoming and we continue to await details as to how this matter will be resolved. It is impacting around 600 current tenants where we are unable to resolve their cases as a result. However, in common with housing benefit, the majority of UC claimants had rent covered in full by this benefit whereby any refund will be due to the DWP only. There will be a small proportion who have made a direct contribution to rent and therefore will be due an element of the refund.
- 2.14 Unfortunately, we are still unable to provide a reliable timeline for refunds against these cases until the DWP have advised further.

Former tenants

- 2.15 Under our action plan and in accordance with priorities set out with the RSH, we have prioritised correction of the historic error so rents are correct going forward and completing the process of refunding current tenants. Nonetheless, we will be addressing former tenant refunds whether these are non-benefit or benefit paid rents in due course.
- 2.16 In lieu of an outcome from the DWP on UC matters, attention will focus on processing former tenancy cases in September, subject to change if relevant DWP information is forthcoming. Work has already commenced which identifies around 600 cases in total to process across the six-year historic repayment period.
- 2.17 Due to the very nature of these closed tenancies and our historic records, the processing of these cases will be a more manual and time-consuming process with likely challenges around information gaps, verification of data and up to date/any contact information on former tenants or their executors.

3 Further considerations

- 3.1 This is still very much a "live" situation on the basis we are still in the process of securing external advice from third parties, notably the DWP. Therefore there are still further items that will then need to be considered. In order to provide current reassurance some of these items are identified below and indicate a direction of travel of what officers are either; planning to do, need to consider further, or may need to procure further advice on.

- Continue to have diarised regular ongoing meetings with the RSH and meetings with the DWP once further guidance is received
- Activity has been focussed on current tenants first – we are now moving onto former tenants as set out above
- The refunds will continue to be dispatched in tranches as also set out above
- Continue to identify vulnerable tenants and bespoke ongoing communications and support accordingly
- Procure further external specialist legal advice if required
- Continue to discuss live solutions with other Councils and Housing Associations who have encountered similar issues
- Continue to confirm policy compliance with the regulator to ensure actions taken are appropriate.

- 3.2 In addition to the above considerations, as reported previously, we will need to continually ensure that decisions recommended at an aggregate financial quantum are compared against HRA cash balances and available reserves to demonstrate long term financial viability has been considered. This will also need to reflect on how the totality of refunds may impact on operational delivery and statutory requirements (e.g. Health & Safety, current and new legislative requirements including the new consumer standards regulatory regime, decarbonisation works, 30 year maintenance and modernisation plans, etc.).
- 3.3 This financial modelling, at the outset and as it is further refined, based on decisions from third parties and actual repayments, will need to be kept to evidence/demonstrate our thinking and hence decision making. We need to share this information with other parties, for instance the RSH where they have already made a number of additional information requests in confidence which we have complied with in order to support their decision making and understanding of this evolving situation. Ultimately, this informed the final regulatory judgement on the matter and continues to be relevant to our ongoing engagement and assurance process with them.
- 3.4 Initial and further, very top level financial modelling indicates that the overall HRA refund exposure, based on a number of criteria and variables set the aggregate quantum of this correction remains at around £1.8m. Based on this modelling, well over 50% of this sum is likely to be rents covered by some form of benefit – so will effectively be a Council/DWP transfer once the numbers are finalised and DWP guidance on treatment of UC is received. This is just within the boundary of the current HRA reserve balance, but we would clearly need to agree a strategic recovery programme, within future budgets, in order to replenish this reserve over the coming years in order to provide assurance on meeting developmental ambitions alongside existing liabilities.

- 3.5 During the ongoing refund process we will need to proactively communicate with our tenants and the DWP to ensure this process doesn't have any associated impacts/consequences with current or future benefit calculations/entitlements.
- 3.6 Given the ongoing delay receiving further guidance from DWP nationally, we may be required to communicate further with all (relevant) overcharged tenants who we know are or have been in receipt of UC advising them of the continued unavoidable delay in being able to process payments.

4 Conclusion

- 4.1 We have received the relevant Regulatory Judgement from the RSH. As anticipated, whilst our historic error resulted in a significant non-compliance with Rent Standard it is clear that our efforts to address this have been recognised as effective, transparent and positive.
- 4.2 Progress has been significant with repayments firmly under way underpinned by an evolving action plan that is adequately resourced to enable continued delivery. Notwithstanding a continued lack of national guidance from the DWP on UC matters, there are clear next steps identified to continue our appropriate redress of both current and former tenants.
- 4.3 During this corrective work stream we will of course continue to keep our tenants regularly updated and the support groups that they regularly reach out to for support. In addition we will continue to have structured progress meetings with all third party organisations involved.

Financial Implications

The activity of MDH is funded through the Housing Revenue Account (HRA). The HRA is ring fenced and subject to specific financial controls.

Significant financial modelling has been undertaken in order to reach some of the key decisions being put forward in the Cabinet report in December 2024 and April 2025. We have also reflected on current balances and reserves held by the HRA and other legislative requirements that have to be delivered when evaluating how to correct this historic rent setting error. This modelling continues to be refined and further work is largely now dependant on further guidance and advice from the DWP as set out within the report.

While analysis we have completed confirms that the majority of those affected have been historically undercharged, the position previously agreed is unchanged and there is no intention or ability to recover lost funds.

Therefore, it continues to be the case that the totality of the impact is experienced as a cost to the HRA rather than a rebalancing.

Legal Implications

External KC advice has been secured which has been used to underpin the recommendations made in the December Cabinet report and continues to be applicable.

Risk Assessment

As set out above, the precise quantum of this exposure can only be estimated at this current time. Allowing the HRA balance to drop below its minimum agreed balance for a period of time clearly reduces its ability to withstand any unknown economic/legislative/climatic shocks. Securing and following external legal advice should reduce some of the HRA's risk exposure.

Impact on Climate Change

Depending on the final quantum of this aggregate refund some decarbonisation works may have to be reprioritised. This requirement has not been identified to date but cannot be ruled out. If this was to be the case further reports and decisions would be required.

Equalities Impact Assessment

There are no specific Equality and Diversity implications. However, due to the vulnerability of some of our tenants we will provide additional support to ensure effective engagement with residents and their families.

Relationship to Corporate Plan

Depending on how this issue is rectified it may impact the Council's plans to ensure it delivers new affordable and social homes annually, improving and maintaining the existing stock to the highest standards.

Section 3 – Statutory Officer sign-off/mandatory checks

Statutory Officer: Andrew Jarrett

Agreed by or on behalf of the Section 151 Officer

Date: 27.8.25

Statutory Officer: Maria de Leburne

Agreed on behalf of the Monitoring Officer

Date: 27.8.25

Chief Officer: Andrew Jarrett

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

Date: 27.8.25

Performance and risk: Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

Date: 20/08/2025

Cabinet member notified: Yes

Section 4 - Contact Details and Background Papers

Contact: Andrew Jarrett, Deputy Chief Executive (S151) / Simon Newcombe, Head of Housing and Health

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Background papers: