

**Report for:**

HOMES POLICY DEVELOPMENT GROUP

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Date of Meeting: 9<sup>th</sup> September 2025

Subject: **VARIATION OF TENANCY AGREEMENT**

Cabinet Member: Cllr Jane Lock - Cabinet Member for Housing, Assets and Property Services

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 – Tenancy Agreement  
Annex B – Equality Impact Assessment

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

The Tenancy Agreement is the legal contract between the Council and its tenants. The agreement sets out both the tenant's and the Council's rights and responsibilities. Under Section 102/103 of the Housing Act 1985, the Council has recently concluded a statutory consultation regarding the proposed amendments to the Council's Tenancy Agreement.

Following on from Cabinet approval on 1<sup>st</sup> April 2025 to commence statutory consultations with tenants under the Housing Act 1985 section 103 to vary the terms of our tenancy agreement this report presents the results of the consultation and the final draft Tenancy Agreement for approval.

It also sets out the steps needed to meet the legal requirements for varying the terms and conditions of tenancy for existing tenants.

## **Recommendation(s):**

**The Homes PDG recommends to Cabinet that:**

- 1. The Tenancy Agreement is approved subject to any responses from new tenants signed up after the preliminary consultation ended**
- 2. Delegated authority be given to Head of Housing and Health (in consultation with the Cabinet Member for Housing, Assets and Property Services) to review the consultation responses from the new tenants and authorise such changes to the new tenancy agreement as he considers necessary in the light of any late consultation responses**
- 3. Delegated authority be given to Head of Housing and Health (in consultation with the Cabinet Member for Housing, Assets and Property Services) to draft and serve the notice of variation to existing secure/introductory tenants under section 103 of the Housing Act 1985 to vary the terms and condition of their tenancies so that they are on the terms and conditions of the new tenancy agreement**

## **Section 2 – Report**

### **1 Introduction**

- 1.1 The Tenancy Agreement is the legal agreement between the Council and residential council tenants. As such it underpins our relationship with our tenants.
- 1.2 It should be noted that there has been significant change since November 2016 when the Tenancy Agreement was last reviewed and the amended version came into use. Since then, the fire at Grenfell Tower, subsequent legislative and regulatory changes, the pandemic, and the cost of living crisis have all impacted the work of MDH as a landlord. It is important that the tenancy agreement in use reflects the external operating environment. In particular, the implementation of the Social Housing Regulation Act 2023 has brought about significant changes, with the aim of putting tenants at the heart of the work of Registered Providers. Recent policy reviews have taken account of some of the required changes and the tenancy agreement also needs to be updated to ensure that conditions of tenancy are aligned with policy commitments.
- 1.3 The Homes PDG set up a working group to look at tenure reform. As a result of this a recommendation was made to Cabinet that the use of flexible tenancies be halted. This means that we will need to issue a new Tenancy Agreement which reflects this new approach.

### **2 Consultation approach**

- 2.1 We sent a preliminary notice of variation to all secure and introductory tenants after this was approved by Cabinet on 1st April 2025. The Preliminary Notice,

Notice of Variation (a document outlining the changes to the Tenancy Agreement), Tenancy agreement changes at a glance leaflet, Informative Table of Substantive Changes and reasons for the changes and a consultation form were posted to all secure and introductory tenants, inviting them to comment on the proposed changes.

2.2 Tenants were able to respond to the consultation in the following ways:

- Writing to Tenant Involvement at Mid Devon Housing; Phoenix House, Phoenix Lane Tiverton EX16 6PP;
- Emailing comments to [tenantinvolvement@middevon.gov.uk](mailto:tenantinvolvement@middevon.gov.uk);
- Contact the Tenant Involvement team on 01884 255255;
- Contacting MDH on Facebook – [www.facebook.com/middevonhousing](https://www.facebook.com/middevonhousing);
- By making a comment on our consultation page at - [letstalk.middevon.gov.uk/tenancy-agreement-consultation](https://letstalk.middevon.gov.uk/tenancy-agreement-consultation)
- Attending one of four drop in sessions.

Scan the QR code to  
view the consultation  
documents and submit  
your comments online



- 2.3 We started consulting with existing tenants on 2<sup>nd</sup> June 2025 and we invited them to comment on the proposed tenancy agreement. Tenants were able to find detailed information on the consultation process, consultation documents, existing documents and a table of substantive changes which detailed what amendments were proposed via a dedicated website. In addition three in person consultation 'drop in' sessions and an 'on line' session were provided where tenants could meet with staff to discuss face to face.
- 2.4 In compliance with Section 103 of the Housing Act 1985, the statutory consultation took place over a 28-day period ending on 30<sup>th</sup> June 2025. Tenants were given 28 days to comment on the proposals and all the responses received were collected, replied to and noted.
- 2.5 New secure and introductory tenants whose tenancies started after 2<sup>nd</sup> June 2025 were informed of the variation to their tenancies when they signed up to their new tenancy. They were able to make comments if these were received during the consultation period.
- 2.6 New secure and introductory tenants whose tenancies started after the consultation ended on 30<sup>th</sup> June 2025 were informed of the variation to their tenancy agreement when they signed up to their new tenancy. They were able to make comments on the proposed variation individually within 28 days of signing the original agreement. Comments received from those tenants is being collated and delegated authority has been given to the Head of Housing and Health to take these into consideration when finalising the Tenancy Agreement.

- 2.7 In total 3,179 consultation packs were posted to tenants 2<sup>nd</sup> June 2025 – 1<sup>st</sup> August 2025. (Note: joint tenants each received a separate pack as dictated by legislation).

### **3 Responses to Consultation**

- 3.1 As of 1<sup>st</sup> August 2025, 214 responses had been received. (135 feedback forms and 79 telephone call-backs requested)
- 3.2 A majority of tenants were happy with the new tenancy agreement and stated that it was easy to understand.
- 3.3 A sample of comments received were:

*We have received preliminary notice of variation to the terms and conditions of our tenancy. We have read through this and are more than happy to agree to them.*

*Well it seems just common sense. Most I would have no issue with.*

*I think it is a well thought out agreement and suitable for this day and age*

*Good evening. Following receipt of the proposed new tenancy agreement today, we have decided to email our response. The agreement was fairly easy to read. We can just understand the document. We have far too many comments to put on here. You only have to look at XXXXX to see more or less all the rules are broken.*

- 3.4 Some of the suggestion changes received included:

*I would like to comment that people who are living in flats with communal outside space and gardens should be allowed areas, specific to themselves for a few seats or pots, so they have something to go outside for. This should be monitored to ensure safety but I have noticed increasingly, especially older residents, feel like prisoners in their homes and have made this comment to me because they are not allowed items outside their properties. I.e. growing some tomatoes in a pot. This person was told he is not allowed. Surely this is a human right. A lot of people have very little to keep themselves interested in life. Rules are good and appreciate they have to be there, but a blanket no in my opinion is not the way forward. In the interest of people's lives surely we could make provision for this to be allowed, even if it is monitored. I would be interested to learn the reasons behind the decision to not allow this.*

*I've received your new tenancy agreement and there are two things that concern me. Firstly is paragraph 5.61 no mobility scooter must be parked on the home. As the housing officer was aware I had one when viewing the property and didn't say it would be a problem. Secondly not to lay laminate flooring which I had already done as soon as moving in and had this laid because I'm unable to Hoover as it's too heavy for me to push a Hoover because of my disability.*

*Unfortunately, I cannot agree with point 8.14 and therefore cannot sign new terms of the agreement. On the day of signing the agreement in 2016 and collecting the keys, we were shocked when opening the flat. Each wall was a different colour, blue, red, a shade of black, grey and magnolia. To confirm this, we have photos of the flat before it was painted. The only thing the Council did was leave a bucket of white paint and a bucket of magnolia colour. We had to do everything ourselves, it took me two weeks. It would be very inappropriate to expect us, the tenants, to paint the apartment in colours that the Council approved before leaving the property, taking into account the condition of the property we received.*

#### Section 4.5

*I am not happy with how you can make us responsible for a visitor once they have left my property anyone is free to go and do what they like once they have left my home so how does that make me responsible for their actions even if they was with me before hand or even after . Once we have said our good bye they are no longer a visitor at my home.*

- 3.5 These points have been addressed in the tenancy agreement where possible, in particular where we remain consistent with recent policy updates, legislation and best practice or the wider balance of responses received.
- 3.6 This feedback will also support ongoing policy reviews and updates, for example mobility scooters where it was linked into the new, draft policy which is a separate agenda item for the PDG.
- 3.7 Many tenants who responded had specific issues with their property or estates which were not directly part of the new tenancy agreement. Any issues raised were passed onto the relevant teams to be actioned.

#### **4 Next Steps and Implementation**

- 4.1 Subject to Cabinet approval, we will plan and implement the introduction of the new Terms & Conditions.
- 4.2 For **NEW** tenants, after a date to be agreed, this will simply mean signing them to the new Tenancy Agreement.
- 4.3 For **EXISTING** tenants, we are required Under Section 103, of part IV of the Housing Act 1985, to give formal notification of any changes by serving the notice of variation with a minimum of 28 days' notice. It is proposed this will be issued in September 2025 with the new tenancy agreement to take effect from October 2025.

#### **5 Recommendation**

- 5.1 In accordance the above and to enable effective, compliant introduction of the new Tenancy Agreement, the following recommendations are made:

**The Homes PDG recommends to Cabinet that:**

- 1. The Tenancy Agreement is approved subject to any responses from new tenants signed up after the preliminary consultation ended**
- 2. Delegated authority be given to Head of Housing and Health (in consultation with the Cabinet Member for Housing, Assets and Property Services) to review the consultation responses from the new tenants and authorise such changes to the new tenancy agreement as he considers necessary in the light of any late consultation responses**
- 3. Delegated authority be given to Head of Housing and Health (in consultation with the Cabinet Member for Housing, Assets and Property Services) to draft and serve the notice of variation to existing secure/introductory tenants under section 103 of the Housing Act 1985 to vary the terms and condition of their tenancies so that they are on the terms and conditions of the new tenancy agreement**

### **Financial Implications**

There will be financial costs incurred as part of this process. A Notice of Variation will be sent to all secure and introductory tenants (circa 3000) by 2nd class post. We have no option legally but to send hard copies of notices and one to each individual tenant.

### **Legal Implications**

As a registered provider (RP) of social housing, the Council is obliged to comply with the requirements of the Housing Act 1985. The specific requirements within the Act with regard to the legal requirements for introducing a new Tenancy Agreement are set out within the report.

The Council's legal team have been closely engaged through this process with regard the updated Tenancy Agreement itself and the notice/adoption process to ensure legal compliance.

### **Risk Assessment**

It is good practice to review tenancy agreements on a regular basis to take account of changes to legislation, regulatory requirements, policy and good practice. RPs also need to ensure that those responsible for housing management can rely on a robust tenancy agreement which can be used in support of efficient and effective management of tenancies and the housing stock.

### **Impact on Climate Change**

The Housing Act 1985 requires local authority landlords to undertake consultation and also to print out various documents and to send these through the post when reviewing conditions of tenancy. This will, of course, have an impact upon emissions but cannot be avoided, in line with legislative requirements.

### **Equalities Impact Assessment**

The regulatory framework currently includes the Transparency, Influence and Accountability Standard and, in line with the provisions of this, RPs are required to treat all tenants with fairness and respect; and also to demonstrate that they understand the different needs of their tenants, including in relation to the equality strands and tenants with additional support needs.

Officers working in MDH have training in support of this and are mindful that the Public Sector Equality Duty applies in the discharge of their duties. Work has started to refresh the information held on tenants in MDH records and, to this end, diversity information will be sought at most contacts starting once teams have been briefed.

An Equality Impact Assessment has been completed and no significant impacts have been identified. Those tenants who may have difficulty using standard means of written communication, including those who with literacy issues or whose first language is not English can request alternative forms of communication, including telephone calls, face to face contact and alternative formats including information in large print.

### **Relationship to Corporate Plan**

We will work closely with our tenants to ensure they feel safe, secure and happy in their homes.

### **Section 3 – Statutory Officer sign-off/mandatory checks**

**Statutory Officer:** Andrew Jarrett

Agreed by or on behalf of the Section 151 Officer

**Date:** 1.9.25

**Statutory Officer:** Maria de Leburne

Agreed on behalf of the Monitoring Officer

**Date:** 1.9.25

**Chief Officer:** Andrew Jarrett

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

**Date:** 1.9.25

**Performance and risk:** Steve Carr

Agreed on behalf of the Corporate Performance & Improvement Manager

**Date:** 22/08/2025

**Cabinet member notified:** Yes

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

**Contact:** Simon Newcombe – Head of Housing & Health

Email: [snewcombe@middevon.gov.uk](mailto:snewcombe@middevon.gov.uk)

Telephone: 01884 244615

**Background papers:**

Current Tenancy Agreements:

<https://www.middevon.gov.uk/residents/mid-devon-housing/your-tenancy/tenancy-agreements/>

Housing Act 1985

<https://www.legislation.gov.uk/ukpga/1985/68/contents>