

Midland Heart Policy

Tenancy Policy

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Business Owner	David Taylor
Approved by	Executive Board

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Always refer to documents stored here when applying policy and procedure.

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1. Purpose

This document will set out in broad terms how different licences and tenancies across the organisation will be offered, managed, reviewed and terminated.

In accordance with the Localism Act, Midland Heart has now introduced the use of Fixed Term Tenancies as well as the requirement to publish a copy of our Tenancy Policy.

This policy must be read in conjunction with the Fixed Term Tenancy Procedure.

The actions we will take are driven by our **Vision**, "The Midland Heart Way is to help transform lives and communities through housing, care and more!" and our **Values**:

- Customer First
- Ambition
- Imagination
- Empowerment
- Inclusive

2. Related Documents

2.1 External:

- Equality Act 2010
- Localism Act 2011
- Data Protection Act 1998
- Housing Act 1988
- Housing Act 1985
- Regulatory Framework - Tenancy Standard
- Laying Foundations - A Housing Strategy for England

2.2 Internal:

- Starter Procedure
- Empty Homes and Voids Policy and Procedure
- Allocations Policy and Procedure
- Succession & Assignments Policy
- Fixed Term Tenancy Procedure
- Mutual Exchange Policy
- Fair Access / Fair Exit Policy
- Move On Policy

3. Scope of Policy

This policy affects all new customers moving into a Midland Heart tenancy.

4. Legal Framework

Legislation	Main powers and relevance
<i>Housing Act 1985</i>	<ul style="list-style-type: none">• <i>Contains the grounds that landlords must prove to gain possession for secure tenancies - Schedule II Grounds for Possession</i>• <i>Contains Notices Seeking Possession -first stage in possession process (s.83): s82A added by the Anti-Social Behaviour Act 2003 regarding demotion orders</i>• <i>Contains the rights of secure tenants</i>
<i>Housing Act 1988</i>	<ul style="list-style-type: none">• <i>Contains the grounds that landlords must prove to gain possession -Schedule II Grounds for Possession</i>• <i>Contains Notices Seeking Possession - first stage in possession process (s.8): S6A added by the Anti-Social Behaviour Act 2003 regarding demotion orders</i>• <i>Contains the rights of Assured and Assured Shorthold Tenants</i>
<i>Localism Act 2011</i>	<ul style="list-style-type: none">• <i>New freedoms and tenure flexibilities</i>• <i>New rights and powers for communities and individuals</i>• <i>Reform to make the planning system more democratic and more effective</i>• <i>Reform to ensure that decisions about housing are taken locally</i>

Legislation	Main powers and relevance
<i>HCA National Standards</i>	<ul style="list-style-type: none">• <i>These standards are designed to help improve the services provided for some 8 million people who live in social housing in England. They are:</i><ul style="list-style-type: none">• <i>Tenant involvement and empowerment</i>• <i>Home</i>• <i>Tenancy*</i>• <i>Neighbourhood and community</i>• <i>Value for money</i>• <i>Governance and financial viability</i>• <i>Rent Standards</i>

5. POLICY STATEMENT

5.1 Introduction

Midland Heart has a long history of providing customers access to housing when they most need it and supporting local communities by investing in and regenerating local neighbourhoods. The flexibilities offered by the Localism Act will be used to support this ongoing work at a time when good quality, affordable housing is in as much demand as ever.

The overriding aim of the Midland Heart Tenancy Policy is to ensure customers have the right home and/or support at the right time and for as long as they need it.

This Policy specifically covers:

- The kinds of tenancies and licences Midland Heart grants
- The circumstances in which Midland Heart will grant a particular tenancy or licence
- The length of tenancies and licences we will grant and Midland Heart's reasons for granting those particular terms
- The circumstances in which Midland Heart will grant a further tenancy (or not) on the coming to end of an existing tenancy
- Paying due regard to the tenancy strategies of the local authorities we work in
- Ensuring the housing circumstances do not become a barrier to achieving broader life aspirations
- Ensuring that customers are given appropriate advice to ensure that they have the right home at the right time.

5.2 Tenancy Types:

Midland Heart offers a range of tenancies and licences. All **current** tenants will remain on their existing tenancy / licence types, unless: Midland Heart has been successful in achieving a Demotion Order, the customer transfers to a property size of three or more bedrooms, (from a smaller sized property), where the tenant has chosen to exchange their tenancy and they are not protected (e.g. have been awarded a Housing Association tenancy after April 2012) or through move on services.

The following table highlights the range of tenancies Midland Heart offers:

Table 1:

Tenancy Type	Who this will be offered to
Licence Agreement (Excluded and Protected)	<ul style="list-style-type: none"> • Customers who do not have exclusive occupation of the property. This usually includes: <ul style="list-style-type: none"> • Customers using garages or parking spaces • Service Occupiers in Tied Accommodation who have service occupancy agreements • Customers that have an existing tenancy that they have been temporarily decanted from • Care and Support Schemes/Services where the customer has shared access either with other customers or where support workers will be required to have access to the property
Assured Shorthold Tenancy Periodic	<ul style="list-style-type: none"> • Customers living in a property where Midland Heart is the leaseholder • Customers living in intermediate rented properties • Customers living in rent to homebuy properties who have not purchased all or part of the property • Customers living in market rented properties • Customers in some supported housing schemes • Customers with limited leave to remain in the UK
Assured Shorthold Tenancy (of another Fixed Term Period other than 6 years)	<ul style="list-style-type: none"> • Some specialist Care and Support Schemes where the tenancy length is discussed at pre - allocation stage.
Starter Tenancy (Assured Shorthold Tenancy - leading to Assured Non Shorthold)	<ul style="list-style-type: none"> • New customers to Midland Heart moving into a general needs home with 3 bedrooms or less.
6 Year Fixed Term Tenancy	<ul style="list-style-type: none"> • General needs customers that have successfully completed a 6 year fixed term tenancy living in a home with 4 bedrooms or more and they still need this accommodation. • New customers to Midland Heart moving into a general needs home with 4 bedrooms or more and their tenancy status is not protected in law.. • Any existing assured non shorthold tenant transferring to a property with 4 bedrooms or more and their tenancy status is not protected in law.

Tenancy Type	Who this will be offered to
Mixed Use Business Tenancy	<ul style="list-style-type: none"> Customers in designated live/work accommodation
Assured Non Shorthold Tenancy	<ul style="list-style-type: none"> Existing Midland Heart customers with an Assured Non-Shorthold Tenancy that are transferring to another Midland Heart owned property with 3 bedrooms or less. Any existing Midland Heart assured non-shorthold tenant choosing to transfer to a property with 4 bedrooms or more and their tenancy status is protected in law Care and support schemes where care/support is attached to the tenancy with no fixed timescale
Leaseholder	<ul style="list-style-type: none"> Customers who own a share in their property Customers who own their home and Midland Heart owns the freehold of the land
Secure Tenancy	<ul style="list-style-type: none"> Existing Midland Heart Secure Tenants who transfer through assignment to another Midland Heart owned property

5.3 Tenancy / Licence Length:

Midland Heart seeks to offer customers a period that allows a degree of stability to enable the customer to invest in their home and community and where relevant under the support terms as set out by Local Authority, SP or Commissioners.

In all cases, the tenancy / licence may be ended earlier if there is a breach of tenancy.

The tenancy / licence lengths are as follows:

- Midland Heart's **Assured (Non Shorthold Tenancies)** or transferred **Secure Tenants** are offered on a long term basis.
- **Assured Shorthold (Periodic Tenancies)** are offered on either a 6 or 12 month period and this will continue to roll over unless Midland Heart stops the tenancy by way of serving Notice.

- **Assured Shorthold (6 Year Fixed Term Tenancies)** are offered on a 6 year basis. Included within this and at the start of the tenancy is a break clause at 12 months.
- **Excluded / Protected Licences** can be ended at any time where Midland Heart has cause.
- **Assured Shorthold (Fixed Terms of Other Lengths)** are offered within some specialist Care and Support Schemes. The periods are discussed with customers at the pre allocation stage.

5.4 Visit Regimes for new customers

Customers will be assessed at point of Allocation and will be categorised under one of two visit regimes, depending on the individual support needs:

Visit regime A - Customers will receive visits at 3 weeks, 6 months, 9 months and visit within Year 3 and Year 5.

Visit regime B - Customers will receive a visit at 3 weeks, Year 3 and Year 5.

It is important to note that customers can switch between the two visit regimes throughout the period of their tenancy should we have concerns about how they are managing their tenancy.

5.5 Fixed Term Tenancies (6 Year)

Midland Heart seeks to offer customers a period that allows a degree of stability to enable the customer to invest in their home and community. To achieve this balance, a Fixed Term Tenancy is offered on a six year basis.

Should the tenant choose to end their tenancy prior to the fixed term end date - they may do so by surrendering their tenancy, giving at least 4 weeks notice. Midland Heart can attach conditions to any surrender

request and where the tenant fails to comply with these conditions, we have the right to refuse their request to end.

At the end of the 6 year period, Midland Heart will decide which action to take, this could be:

- 1) To issue a new 6 Year Fixed Term Tenancy
- 2) For the tenant to remain in the property but on new terms; or
- 3) To assist the tenant to find alternative (and more suitable) accommodation; or
- 4) Not offer any other form of tenancy

5.5.1 Breaching a Fixed Term Tenancy

Where persistent breaches have been proven and behaviour has not been improved to an acceptable standard following two warning letters, we will take the appropriate steps to extend or terminate.

Where a breach of the tenancy agreement is severe Midland Heart will take the appropriate steps to terminate the tenancy without formal warning letters or other interventions or remedies. Examples of a severe breach include but are not limited to:

- A physical attack on another person within or the immediate vicinity of their home.
- Any actions that place other people's health and safety at risk.

1. Within the first 12 month period of 6 year tenancy

Midland Heart has the right to either extend the 12 month period by a further 6 months or we can end the tenancy, giving the customer 2 months notice

2. After the initial 12 months (or 18 months if we extend)

Midland Heart can end the tenancy in accordance to existing Midland Heart Policies and Procedures.

5.5.2 The End of the Fixed Term

Midland Heart will normally reoffer a Fixed Term Tenancy, unless:

- The property is adapted and no-one residing at the property requires those adaptations
- The property is under-occupied
- The property is over-crowded
- The financial circumstances of the tenant and their partner have changed so that other housing options are available such as home ownership or other tenures - in accordance with our Affordability Criteria
- Any breaches of tenancy or tenancy fraud are identified during the Fixed Term Tenancy review process
- The customer and/or their advocate do not engage in the Fixed Term Tenancy review process
- The customer does not accept the terms and conditions of the new Fixed Term Tenancy
- If the customer comes into legal ownership of another home or property
- Midland Heart reasonably requires possession of the home to enable it to effectively manage its property stock and portfolio, for example, it is looking to sell the property, carry out major works or to be consistent with local lettings policies or neighbourhood plans

5.6 Licence Agreements

5.6.1 Term of a License

The term of the license is specified within the individual agreement and will usually be periodic agreement that will continue to roll over until the agreement is ended either by the customer or by Midland Heart.

5.6.2 Ending a License Agreement

Midland Heart can end the tenancy in accordance to existing Midland Heart Policies and Procedures.

Where the tenant has an Excluded License, Midland Heart has the right to provide the customer with reasonable notice to leave the property.

Where the tenant has an Protected License, Midland Heart will serve the customer with a 28 day Notice to Quit.

5.7 Assured Shorthold Tenancies (AST)

Midland Heart offers AST's on either a probationary period (starter) that converts to an Assured (Non Shorthold) Tenancy or on a 6 or 12 month basis that will keep rolling over until Midland Heart or the tenant ends the tenancy. Some AST Fixed Terms of lengths other than 6 years are offered within some specialist care and support schemes.

5.7.1 Ending an Assured Shorthold Tenancy

Where the tenant has breached their tenancy and non legal remedies have not been successful or appropriate, Midland Heart will issue a Notice Requiring Possession (NRP), giving the tenant at least two months notice of our intention to terminate.

In the case of termination, if the tenant does not leave the property on or before expiry of the two month notice period, we will apply for a court order for possession. No grounds for possession will need to be proved, as the end of an assured shorthold tenancy is a mandatory ground in itself. Where the tenant does not abide by the court order for possession, we will apply to the court for a warrant of possession

5.8 Assured Non Shorthold / Secure

Assured Non Shorthold Tenancies are the most secure form of tenancy a Housing Association can offer. A secure tenancy cannot be offered to any new Midland Heart Customer.

5.8.1 Ending an Assured Non Shorthold or Secure

Where an Assured (Non Shorthold) Customer or Secure Tenant has breached any part of their tenancy, Midland Heart can serve them a Notice Seeking Possession outlining the relevant breach and enter them into court. The court will decide whether the tenancy can be terminated or not.

5.9 Right to Review / Fair Exit

Midland Heart provides access to an appeals process and panel for 6 Year Fixed Term Tenants, Customer and Communities Assured Shorthold Tenancies and Starter Tenants wishing to appeal the decision to extend or terminate their tenancy. Information on appeals will be provided to tenants at the beginning of their tenancy and at the point where action to extend or terminate is initiated.

Tenants have 14 days in which to appeal in writing following service of the notice or of the letter advising of a tenancy extension period. Where an appeal against the Notice to Extend/End fails, possession action will be continued or the tenancy extended for a further 6 months.