

# Midland Heart Policy

## Voluntary Right to Buy Policy

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Staff Affected	<i>VRTB Team and Housing Officers</i>
Business Owner	<i>Sally Thompson</i>
Approved By	<i>David Taylor</i>
Author	<i>Sally Thompson</i>

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## 1. Purpose

The purpose of this policy is to ensure that the Voluntary Right to Buy Scheme is delivered consistently across the Organisation that all tenants are treated fairly and all applications are processed in accordance with the NHF Guidance Document.

The actions we will take are driven by our **Vision** "to be a leading housing and care business, helping people to live independently!" and our **Values**:

- **People Focussed**
- **Inclusive**
- **Professional**

## 2. To Be Read In Conjunction With

### 2.1 External:

NHF Guidance Document

### 2.2 Internal:

VRTB Procedure

## 3. Policy Document Version Control

Version	Date	Business Owner	Review/Health Check
1.0	October 2016	Sally Thompson	Review
1.1	July 2017	Sally Thompson	Review
1.0	February 2018	Sally Thompson	Review
1.1	August 2018	Sally Thompson	Review

## 4. Scope of Policy

This policy applies to all employees of Midland Heart who may be asked to give advice to tenants regarding their eligibility for the VRTB including RTB Officers, Leasehold Officers and the Customer Hub.

## 5. Introduction

In its 2015 manifesto, the Government made a commitment to extend the Right to Buy to Housing Association tenants. In September 2015, the NHF, on behalf of the HA sector, made an offer to government to extend RTB level discounts to eligible tenants through a voluntary rather than statutory approach. The offer was accepted by the Government in 2015. As a result of the agreement the Housing and Planning Act 2016 was drafted to enact only what was necessary to enable the Secretary of State to underpin the agreement. This includes powers to compensate private registered providers for the cost of discount; and home ownership criteria that creates an expectation that all HA's will provide a home ownership offer to their tenants and this will be monitored by the Regulator.

### 5.1 Aims

To process VRTB applications fairly, accurately and within prescribed timescales.

### 5.2 Measures and Monitoring

The VRTB will be monitored through the Property Purchase Module of Northgate. This will enable Managers to run reports detailing when Applications were received and responded to; when Offer Notices were issued and the date we receive the tenant's response; and the conveyancing process.

### 5.3 Legal Framework

Legislation	Main powers and relevance to the VRTB
Housing and Planning Act 2016	Includes powers to compensate private registered providers for the cost of discount; and home ownership criteria that creates an expectation that all HA's will provide a home ownership offer to their tenants.
Anti Social Behaviour and Policing Act 2014	Paragraph 11 to Schedule 11 – Defines the meaning of ASB. Power to grant injunctions and exclude from home.

## 6. Definitions

The VRTB will allow all eligible tenants of Midland Heart the right to buy a property at a discount. There is a presumption that we will sell eligible tenants the property in which they live. However, where a property type is exempt we have the discretion to refuse a sale. In these cases the tenant will have the opportunity to port their discount to another property.

## 7. Service Provisions

### **Eligibility**

Tenants are eligible if:

- They have lived in their current home for 12-months.
- They can prove they have been a tenant of social or affordable housing for at least 3 years (this need not have been with the same landlord or continuous).
- They currently hold an un-demoted secure tenancy, an un-demoted assured tenancy or fixed term 'flexible' tenancy of 2 years or more.
- They have the right to reside in the UK, and can demonstrate that they meet the immigration status checks
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Tenants are not eligible if:

- They have the statutory preserved RTB
- At the time of application they hold a periodic assured short hold tenancy, an assured shorthold tenancy for a fixed term of less than 2 years or are a licensee
- they do not have the right to reside in the UK, and cannot demonstrate that they meet the immigration status checks
- They became a tenant of their existing home through the mortgage rescue scheme and remain on the original fixed term tenancy.
- They are tenants of alms houses or fully mutual co-operatives.
- They have any rent arrears at the point of application or purchase completion.
- They or any joint applicants are subject to bankruptcy proceedings or unfulfilled credit arrangements
- They have committed anti-social behaviour as defined in the Paragraph 11 of Schedule 11 to the Anti-Social Behaviour, Crime and Policing Act 2014 (see Annex) and the housing association has initiated legal proceedings as a result of this. Tenants would become eligible if such legal proceedings were withdrawn or discontinued;
- They are currently subject to legal proceedings, e.g. injunction proceedings have been issued or a notice of seeking possession (NOSP) has been served. Tenants would become eligible if such legal proceedings were withdrawn or discontinued, or if the landlord failed to send papers to the court for issue within 6 months of expiry of the NOSP, or the landlord loses the case in court (including following any appeal);
- They already own a property even if it is not their principal residence at the point of purchase
- They hold an assured fixed term tenancy where the term (as originally granted, not the unexpired portion of it) is 21 years or more
- They hold an assured tenancy for a single room in a shared house

### **Unique Reference Number (URN)**

Before an applicant can become eligible and MH can process an application the tenant must log their interest on the Government Portal and be accepted onto the funding programme. Once they have done this they will receive a unique reference number which must be noted on the online application form.

Online forms received without this URN cannot be accepted and will be declined. A new application will have to be submitted by the applicant.

### **Tenant Verification**

All tenants must agree to purchase the property or sign the VRTB application form to say that they do not wish to be included in the purchase.

All signatures will be checked against the Tenancy Agreement. If there is any discrepancy then the tenant/s will be asked to provide further evidence such as a Passport or Driving Licence. Tenants may also be asked to come into the office with ID and sign in front of the RTB officer.

If the tenant/signature can not be verified then the application will be suspended until it has been. If verification has not occurred after 8 weeks the application will be cancelled.

### **Sharing Family Members**

If the tenant is applying jointly with a spouse, civil partner and/or up to 3 family members they must:

- Demonstrate that it is the main home of every applicant
- Prove that it has been their residence for at least 12 months

No joint applicant can be added to or removed from the application during the process without voiding the application requiring a re-application by the tenant.

It is the responsibility of the tenant to prove the qualification of any sharing family member (SFM). Proof of residency will include:

- P45, P60 or payslip
- Current benefit or pension claim letter, book or card
- A utility or council tax bill
- Bank or credit card statement
- Mobile phone bill

Doctor's letters and Statutory Declarations will not be accepted.

If an application is received which includes a SFM but the relevant evidence is not included the SFM will be denied.

### **Qualifying Period**

The qualifying period, and the period on which discount is calculated, can include:

- Non-consecutive periods as public sector tenants
- All un-demoted secure or un demoted assured tenancies
- Fixed term assured short hold tenancies
- Completed probationary periods
- Periods spent as a public sector licensee (e.g. alms houses, MOD tenant)
- Periods as an assured shorthold tenant with a registered provider in an affordable housing product.

It is the tenant's responsibility to provide evidence of any tenancies held with other public bodies. The tenant should provide either:

- A letter from the landlord confirming the tenancy start and end date and the name of the tenants.
- A copy of the rent card showing the names of the tenants and the start and end date of the tenancy.

If neither of the above is available then MH will accept a Statutory Declaration but only when accompanied by:

- A copy of the electoral register confirming occupancy during the period being claimed.
- A letter from the landlord confirming the property was in their ownership during the period being claimed.

### **Exempt Properties**

Under the voluntary scheme Midland Hearts Board of Directors has exercised discretion and decided not to sell a range of properties. Appendix A outlines the circumstances when a property will not be sold and the rationale for that decision.

### **Portable Discounts**

In the event that MH exercises its discretion not to sell a property to an eligible tenant, that tenant has the option of using their discount to buy an alternative home under the terms of our Porting Policy. Only tenants whose properties are exempt can opt to transfer to another property and purchase that property under the VRTB.

The Porting Policy is attached at Appendix B.

### **Application Fee**

When an application has been admitted, the tenant must pay a fee. The fee amount will be advertised on the Midland Heart website. The application can not proceed, and a valuer can not be appointed, until this fee is paid.

The fee can only be paid by debit or credit card directly to MH. Cheques will not be accepted.

If the tenant is unable to proceed because they fail the eligibility test, or because the property is subject to the discretion not to sell, this fee is refundable. The fee is also refundable on successful completion of the sale.

### **Valuing the Property**

Valuations must be carried out by a RICS qualified valuer. MH will give the tenant a choice of 3 valuers approved by MH. The tenant must choose one of the valuers from the 3 provided and confirm their choice of valuer within 3 working days.

Contact details of the tenant will be passed to the valuer. The valuer will make direct contact with the tenant to make arrangements for the home visit. If the tenant does not engage with the valuer, or misses 2 appointments, the application will be closed.

The valuer will survey the property and mark out the boundary lines. It is the tenant's responsibility to identify any outlying buildings such as garages or sheds that should be included in sale; these will be verified by Midland Heart.

Information that should be supplied to the valuer is listed in the procedure.

### **Disputing the Valuation**

The tenant has the right to dispute the valuation. The second valuation must be carried out by a valuer from the original list and the cost must be met by the tenant.

If MH disputes the valuation then there will be no additional cost to the customer for the second valuation.

### **Repairs after Valuation**

No repairs will be carried out to the property once the application fee has been received unless they are required for Midland Heart to comply with:

- Section 11 Landlord and Tenant Act 1985
- Environmental Protection Act 1990
- Section 4 Defective Premises Act 1972

No planned improvement works will be undertaken to the property once the application fee has been received.

### **Calculating the Discount**

For each complete year of confirmed tenancy, the tenant is entitled to receive a discount based on a percentage of the open market value of the property. The monetary value of this percentage is deducted from the market valuation of the property.

#### Freehold

The tenant is awarded 35% discount for the first 5 years and a further 1% for each additional complete year of tenancy up to a maximum of 70% or \*£80,900 ( as at May 2018), whichever is the lower.

#### Leasehold

The tenant is awarded 50% discount for the first 5 years and a further 2% for each additional complete year of tenancy up to a maximum of 70% or \*£80,900( as at May 2018), whichever is the lower.

\* The maximum cash discount will increase each year by the Consumer Price Index (CPI).

It is the tenant's responsibility to provide evidence of any tenancies held with other public bodies that they wish to be taken into consideration for the calculation of discount. The tenant should provide either:

- A letter from the landlord confirming the tenancy start and end date and the name of the tenants.
- A copy of the rent card showing the names of the tenants and the start and end date of the tenancy.

If neither of the above is available then MH will accept a Statutory Declaration but only when accompanied by:

- A copy of the electoral register confirming occupancy during the period being claimed.
- A letter from the landlord confirming the property was in their ownership during the period being claimed.

### **Funding**

An application can only proceed if the funding is available. Funding must be checked at two stages in the application:

- Before the valuation is requested
- Before the formal Offer is made to the tenant

### **Offer Notice**

Once the valuation has been received MH will serve a Notice on the tenant confirming the valuation, discount and selling price. If the property is leasehold, the Notice will also confirm details of service charges and an estimate of costs of services and works expected over the next 5 years.

A full list of what has to be included in the Offer Notice is in the procedure.

### **Completing the Sale**

The tenant must confirm in writing that they wish to proceed with the sale. Confirmation must include details of the solicitor acting and how the purchase is being funded.

If the tenant is securing a mortgage, the lender must be registered with the Financial Conduct Authority.

If it is a cash purchase then the tenant must provide evidence of how this is being funded, for example, copies of bank statements, supporting letters and I.D.

Completion cannot take place unless the rent account is clear. All arrears must be paid prior to completion.

No delay Notices will be sent to the tenant. Timescales will be clearly outlined throughout the process and it is the tenant's responsibility to ensure these are adhered to. Failure to adhere to the timescales will mean the application is automatically cancelled.

### **Repayment of Discount**

The voluntary scheme sets out where a discount will be repayable on a sliding scale if the property is sold within a set number of years from the date of sale. Midland Heart will explain this requirement during the purchase process and a charge will be placed on the title deed when the property is sold.

Discounts will also be repayable if the tenant is found to be in breach of terms of the sale, lease or is found to have committed fraud.

### **Appealing any decision made by Midland Heart**

If the tenant disputes a decision made by Midland Heart then this should initially go to the RTB Team Leader for investigation. The RTBTL will check the policy and procedure and ensure that this has been followed; if it has then the appeal will not be upheld.

If a decision has been made that falls outside of the policy or procedure then this will be investigated by the Leasehold and Lettings Manager who will confirm if the tenant has been treated fairly and reasonably. If it is found that the appeal should be upheld then the LLM will provide an appropriate and proportionate remedy.

If the tenant is still not satisfied then they can appeal to Ombudsman or an Agent as appointed by the DCLG.

### **Fraud and Exploitation**

If at any time during the application process there is any suspicion of fraud or money laundering, Midland Heart will suspend the application to carry out investigations.

## 8. Abbreviations

ASB	Anti Social Behaviour
HA	Housing Association
DCLG	Department for Communities and Local Government
LLM	Leasehold and Lettings Manager
MH	Midland Heart Ltd
NHF	National Housing Federation
NHO	Neighbourhood Housing Officer
NSP	Notice Seeking Possession
RTB	Right to Buy
RTBTL	Right to Buy Team Leader
SFM	Sharing Family Members
VRTB	Voluntary Right to Buy