



# Tenancy Management Policy

## 2022

Appendix 2

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## 1. Introduction

- 1.1 MDH's Tenancy Management Policy sets out our approach to providing an efficient and effective tenancy management service to our tenants.
- 1.2 It is a requirement of all social landlords to publish a tenancy policy which sets out the types of tenancy that will be offered and how these tenancies will be managed.
- 1.3 This policy combines the previous Introductory Tenancy Policy, Tenancy Policy and the Tenancy Changes policy to provide one combined document that is clear and concise for both tenants and staff.

## 2. Aims

- 2.1 The aims of this policy are to set out how MDH will manage tenancies in respect of:
  - The types and lengths of tenancies MDH will offer
  - The circumstances which determine the type of tenancy that will be offered
  - How a tenancy can be brought to an end
  - Changes to tenancies
  - MDH approach's to tenancy management, tackling tenancy fraud and tenancy sustainment

## 3. Related Documents and Legislation

- 3.1 This policy should be read in conjunction with:

- Tenancy Agreement
- Tenancy Strategy
- Homelessness Strategy
- MDH Allocations Policy
- Anti-Social Behaviour Policy
- Rent Arrears Policy
- Allocations Policy
- Devon Home Choice Policy
- Rechargeable Repairs Policy

Legislation:

- The Housing Act 1985, 1988 and 1996
- Localism Act 2011
- Domestic Abuse Act 2021
- Tenancy Standard 2015
- Prevention of Social Housing Fraud Act 2013
- ASB, Crime and Policing Act 2014
- Matrimonial and Family Proceedings Act 1984
- Civil Partnership Act 2004

Documents:

- Reshaping consumer regulations: our principles and approach – RSH
- Social housing regulation – DLUHC

## 4. Types of Tenancies

### Introductory Tenancies

- 4.1 An introductory tenancy is a fixed term tenancy for 12 months. This can be extended by a further 6 months at the discretion of MDH. No further extensions are permitted.
- 4.2 The terms and conditions of an introductory tenancy are broadly the same as a secure tenancy, apart from some key exceptions. [Please see supplement 1](#)
- 4.3 All prospective tenants are informed before their sign up if they are being offered an introductory tenancy and they will have had a draft copy of the agreement, sent in advance of their sign up.
- 4.4 A tenancy review will take place at around 6 weeks from the tenancy start date. This can be done over the phone or via a home visit (where there has been additional support needs flagged) to ensure that the tenant is managing their tenancy, able to maintain their home and that all other aspects of the tenancy are being met.
- 4.5 If additional needs are identified at the 6 week check, the officer will facilitate appropriate support, or signpost to a support agency, to ensure that the tenant is given every opportunity to maintain their introductory tenancy.
- 4.6 At the end of the 12 month period, an introductory tenancy will automatically convert to either a flexible tenancy or a secure tenancy. The only exceptions to this would be when a decision has been made to extend the tenancy, or MDH are seeking possession of the property.
- 4.7 MDH may extend the introductory tenancy by a further 6 months, if there is any breach of the tenancy conditions, set out in their agreements. Tenants have the right to request a review of this decision.
- 4.8 MDH may decide not to allow an introductory tenancy to convert and the tenant will be required to move out. Tenants have the right to have this decisions reviewed by the Operations Manager for Housing Services.
- 4.9 Introductory tenancies can be brought an end more easily than secure tenancies. As long as MDH have followed the correct processes, a court must grant possession to MDH.
- 4.10 Introductory tenancies will not be used where:
  - Someone is a secure tenant of a local authority immediately before the offer of accommodation, or a secure or assured tenant of a housing association; or
  - Where a secure tenancy is being assigned, including by way of a mutual exchange.
  - In exceptional circumstances, where it would not be appropriate to grant an Introductory Tenancy, MDH will grant a Secure or Flexible Tenancy.

### Flexible Tenancies

- 4.11 Section 154 of the Localism Act 2011 gives local authorities the power to offer new social tenants flexible tenancies for a fixed term. A fixed term tenancy is a secure tenancy normally offered for a period of 5 years but no less than 2 years in certain circumstances where this is permitted.
- 4.12 Flexible tenancies will be offered for a 5 year period, following a successful 12 month introductory tenancy.
- 4.13 Flexible tenants have the same rights as secure tenants – [please see supplement 1](#). The only exception is that flexible tenants do not have the right to claim compensation for any improvements carried out at the property.

- 4.14 Flexible tenants will be reviewed before the fixed term is due to expire. This review will determine whether or not a further flexible tenancy is issued.
- 4.15 Factors that are taken into account when conducting the flexible review will include (but not be limited to):
- Household income / financial resources – as set out in the Devon Home Choice Policy
  - Household composition – if the property is under or over occupied it may not be appropriate to issue a further tenancy at the same property
  - General tenancy conduct such as serious rent arrears or ASB
  - If the property has been adapted for someone no longer living in the property
- 4.16 Following review, the options available are:
- Offer a further flexible tenancy at the same property
  - Offer a further flexible tenancy at a different property
  - Offer a secure tenancy
  - Not offer any further tenancy and require the tenant to vacate the property
- 4.17 If a further tenancy is offered, it will normally be for another 5 years. MDH may offer a reduced period of 2 years if there is a need to balance the household against local housing demand. This would be the case if the household composition is likely to change significantly within the next 2 years.
- 4.18 A decision notice will be issued to the tenant with a full explanation given as to the decision that has been reached. If the decision is not to issue a further tenancy, details of advice and assistance will be made available to the tenant.
- 4.19 Tenants will have the right to request a review for all options above (apart from where a further flexible tenancy is offered at a different property). The review process will be in line with the Flexible Tenancies Regulations 2012 (Review Procedures).

### Secure Tenancies

- 4.20 A secure tenancy is a lifetime tenancy, meaning it cannot expire and can only be brought to an end if one of the following occur:
- the tenant serves a valid Notice To Quit (NTQ)
  - the tenant offers a [surrender of the tenancy](#) which is accepted by the landlord
  - one of the tenant or landlord conditions of a secure tenancy ceases to be met
  - the tenant loses the secure tenancy by [subletting the whole property](#)
  - the tenant is demoted to a [demoted tenancy](#)
  - a court order for possession takes effect under one of the grounds specified in the [Housing Act 1985 \(legislation.gov.uk\)](#)
- 4.21 MDH will grant a secure tenancy if the applicant was a tenant of a social landlord, prior to taking a tenancy with MDH.
- 4.22 A secure tenancy gives the tenant security of tenure and the following statutory rights as shown in [supplement 1](#)
- 4.23 A person under the age of 18 cannot legally hold a tenancy. In cases of minors seeking tenancies, MDH will require another member of the minor's family or another trusted adult to hold the tenancy in trust until they have reached the age of 18 when they tenancy will pass to them.

## Demoted Tenancies

- 4.24 A demoted tenancy is a flexible or secure tenancy that has been demoted by a court order to a tenancy with the status of an introductory tenancy.
- 4.25 MDH will consider the use of demoted tenancies as part of our response to dealing with and tackling anti-social behavior.
- 4.26 A demoted tenancy will remain for 12 months and during this period, the tenancy will be monitored closely. If the tenancy has been conducted satisfactorily, it will revert to its original status i.e. Flexible or Secure.
- 4.27 Where a flexible tenancy has been demoted, and the demotion period completed satisfactorily, a notice will be served before the end of the demotion period, informing the tenant that the tenancy will be a flexible tenancy, specifying the length of the fixed term and any other express terms of the tenancy.

## Licence Agreements

- 4.28 MDH offers licence agreements to people who are being housed temporarily under the Council's homelessness duties. They are generally used for interim accommodation.
- 4.29 If one of MDH's properties requires major works, for example because of a serious fire, a decant to a temporary accommodation will be offered if MDH considers it unsafe for a household to remain at home during the work. The tenant(s) will be offered a licence agreement for the duration of the works.
- 4.30 When works are completed, the tenant(s) will be served with Notice to end the licence agreement, return to their home, and continue their secure tenancy. The secure tenancy will continue whilst works are undertaken and will be deemed a continuation in respect of the tenancy, and for the purposes of Right to Buy, qualifying discount.

## 5. Ending a Tenancy

### Where a Tenant wishes to end the Tenancy

- 5.1 A tenant may decide at any time that they wish to end their tenancy. They can do so by giving MDH 4 weeks notice in writing'. This is known as Notice to Quit and has to be completed in a prescribed format, (please contact MDH if you wish to give notice to end your tenancy), MDH will send you the prescribed form via email or in the post, but this must be returned with your signed signature, a typed signature will not be deemed legally binding. Terminations can be hand delivered, a photo taken of the written document and emailed to us at [htenancy@middevon.gov.uk](mailto:htenancy@middevon.gov.uk). If notice is being given by someone who is not the tenant, we will need to see the original Power of Attorney or a Will showing the person signing the notice is named as either executor or administrator of the will.
- 5.2 Once the termination has been received, the notice becomes effective on the Monday and all tenancies will end on a Sunday four weeks after the effective date. Rent will still need to be paid, up until the end date of the notice
- 5.3 When leaving, all tenants must give vacant possession which means the property must be left clean and clear as per the terms in the tenancy agreement. If the property is not left in a satisfactory manner, the costs of cleaning and clearing will be recharged to the outgoing tenant.

- 5.4 If a tenant serves a NTQ and then changes their mind, the notice cannot be retracted. Once notice has been served it cannot be withdrawn, it would be at MDH's discretion to grant a new tenancy at the end of the notice period if this was requested, and there is no legal obligation for us to grant this. We consider an individual's circumstances, whether the property has already been advertised for letting and offered to someone else would impact on our ability to agree a new tenancy.

#### **Where MDH wishes to end the Tenancy**

- 5.5 MDH seeks to support tenants in maintaining their tenancies but will take action to end tenancies in circumstances where:
- The tenant has breached their tenancy conditions
  - The tenancy has been obtained fraudulently
  - MDH needs the property for a redevelopment or regeneration scheme
- 5.6 The tenant will be referred at the earliest opportunity to the Housing Options Team for advice and assistance.

## **6. Death of a Tenant**

- 6.1 In the unfortunate event of a death of a tenant, the tenancy can be transferred to an eligible family member. This is called a succession and based on the legal requirements as to who is deemed a successor tenant under the Housing Act 1985 and the Localism Act 2011.
- 6.2 Whilst a family member may succeed to a tenancy this does not mean they can automatically remain in the home. MDH will work with the successor tenant considering their individual circumstances and either allow continuation of the tenancy at the property they have resided in, or offer a suitable alternative that meets their housing need.
- 6.3 If there is no eligible family member to succeed the tenancy, MDH will end the tenancy by serving notice. You will be signposted to complete a Devon Home Choice Application to assess your housing need and encouraged to contact Housing Options at Mid Devon District Council to offer appropriate housing advice where there is no legal right to succeed the tenancy.
- 6.4 MDH Neighbourhood Team Leader, Housing Options Officer, Allocations Officer, Income Officer and Estates Officer will request relevant information to your case, to establish your housing need. They will collectively decide on the appropriate course of action. Contact will be maintained to ensure that you are kept informed of the progress of your case.
- 6.5 Once we have vacant possession of the property, an inspection will be carried out. If there are any rent arrears or other monies owing, for example, recharges, these will pass to the deceased's estate. If the tenant left a will, MDH will make a claim to the tenant's executor.

## **7. Assignment**

- 7.1 An assignment is the legal way in which a tenancy can be passed from a tenant to someone else:
- by way of a mutual exchange (excluding introductory tenancies)
  - following a court order obtained under matrimonial proceedings or civil partnership proceedings
  - the proposed assignee would be eligible for housing under the Devon Home Choice Scheme and MDH's Allocation Policy

- 7.2 MDH will allow both flexible and secure tenants to assign their tenancy to another person. The assignment will only be made to a person who would be entitled to succeed to the tenancy should the tenant have died immediately before the assignment.
- 7.3 Assignments use up the right of succession and a tenancy can only be succession or assignment. If someone was granted their tenancy as a succession, they will not be able to carry out an assignment.
- 7.4 Tenants wishing to assign their tenancy must apply to MDH in writing. Unauthorised assignments are a breach of tenancy and legal action will be taken to remove unlawful occupiers. Costs associated with this will be the tenant's liability.
- 7.5 Where MDH receives an application to assign a tenancy, a decision within a reasonable timescale, upon receipt of all of the required information
- 7.6 MDH will only withhold consent on the following grounds:
- The existing tenant succeeded to the tenancy
  - The tenancy was assigned to the existing tenant
  - MDH is in the process of taking legal action to recover possession of the property
  - The person the tenant wished to assign the tenancy to is not a person who would be entitled to succeed to the tenancy, if the tenant died immediately before the assignment
- 7.7 In instances where the MDH withholds consent to the proposed assignment this will be in writing, advising the tenant of the reasons for the decision.
- 7.8 In instances where MDH provides consent to the proposed assignment, this will be in writing. The tenant and the assignee will be invited to sign the deed of assignment. MDH will advise the assignee of their rights and responsibilities as a secure tenant, the date the tenancy was commenced and the balance of the rent account.
- 7.9 The assignee is regarded as a successor tenant.

## 8. Succession

- 8.1 When a tenant dies, another family member may be entitled to inherit their tenancy. In legal terms, this is called a succession. It is only possible to have one succession per tenancy.
- 8.2 On being advised of the death of a tenant who doesn't live alone, MDH will undertake investigations to establish whether the right of succession exists and whether the person(s) who lived with the late tenant are entitled to succeed to the tenancy. Succession will only be granted to someone who is entitled to succeed to the tenancy. The person succeeds the tenancy and not the property.
- 8.3 A person is qualified to succeed to the tenancy if they occupy the home and have done so for at least 12 months prior as their only or principal home at the time of the tenant's death and is either:
- the tenant's spouse or civil partner; or
  - the tenant's cohabitant and has resided with the tenant throughout the period of the 12 months ending with the tenant's death; or
  - another member of the tenant's family who has resided with the tenant throughout a period of the 12 months.



- 8.4 A person is considered to be a family member if their relationship was one of the following: the tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece.
- 8.5 For secure tenancies created after 1 April 2012, there is no right for a family member to succeed, unless the tenancy agreement allows it. In normal circumstances, the following members can succeed a tenancy after 1<sup>st</sup> April 2012:
- Husband/Wife
  - Civil partner
  - Co habiting partner
- 8.6 **To succeed the tenancy, MDH will check:**
- The date the tenancy started
  - If the individual is one of the persons listed above
  - Whether the deceased was using the home as their main or principle home up until the date of death for at least 12 consecutive months prior to the death
  - The successor was also living at the home during this period, whilst married, in a civil partnership or co habiting.
- 8.7 **MDH will not agree to a succession in the following situations:**
- If the applicant is unable to prove that they are a family member or that they live/had lived at the address.
  - If the tenancy has already been succeeded as it cannot be succeeded again. This also applies if there has been an assignment of the tenancy.
- 8.8 Eligible successors to the tenancy will have the same tenancy as the person who dies.

## 9. Succession and Under-occupation

- 9.1 In cases where the successor is a close family member (as above) and the property they occupy is considered too large or unsuitable, MDH will offer a tenancy of a suitable alternative property.
- 9.2 If the successor is occupying a property which is considered too large or unsuitable, MDH make a suitable alternative offer of accommodation. This may be done through a direct let or via the Devon Home Choice scheme.

## 10. Sole and Joint Tenancies

- 10.1 MDH offers both sole and joint tenancies to new tenants moving into one of MDH's properties.

### **Sole Tenancy**

- 10.2 A sole tenancy is where one member of the households signs the tenancy and is responsible for ensuring anyone living within the property fulfils the responsibilities set out within the tenancy agreement. Where there is a breach of tenancy, the sole tenant will be accountable, even if the breach was caused by a member of the household or guest.

### **Joint Tenancy**

- 10.3 A joint tenancy is where more than one person has responsibility for meeting the requirements of the tenancy agreement. Each tenant has equal rights to the tenancy.
- 10.4 MDH will offer a joint tenancy to a maximum of 2 people. The tenancies listed above could be granted a joint tenancy based on the following circumstances:

- The proposed joint tenants are both eligible for housing as defined by legislation and
- Where the proposed joint tenants are married or civil partners or
- Where the proposed joint tenants live together and the relationship is an 'established'

### Converting a sole tenancy to a joint tenancy

- 10.5 Requests from existing sole tenants that wish to add another person to their tenancy, creating a joint tenancy will be considered on a case by case basis at MDH's discretion. It is important to seek independent legal advice if you are considering requesting a joint tenancy.
- 10.6 Applications for a sole to joint tenancy will be refused under the following circumstances:
- The household cannot provide proof of marriage or civil partnership, or of joint residency for at least 12 months prior to the application
  - There is outstanding action against the household for a breach of tenancy
  - There are outstanding rent arrears
  - There is a history of tenancy breaches
  - The tenancy has been demoted
  - The applicant is already named on another a tenancy
  - The tenancy has already been assigned to the sole tenant
  - The tenancy has been succeeded to by the sole tenant

### Converting a joint to sole tenancy

- 10.7 In some situations, a household may wish to convert their joint tenancy to a sole tenancy. MDH will check whether this is lawfully possible under [Section 91 of HA 1985](#)
- 10.8 The tenant who wishes to remove themselves must complete a notice to quit on our prescribed form requesting to end the tenancy. If your tenancy is a flexible, demoted or introductory notice will be required from both joint tenants. If your tenancy is secure then any one joint tenant can end the tenancy, this puts the joint tenant at risk of also losing their home.

A notice will be accepted for flexible tenants where:

- Both parties agree
- There are no outstanding breaches against the tenancy
- There are no outstanding rent arrears
- The home has been adapted for the leaving tenant

A notice will be accepted for secure tenants where:

- One party signs the notice
- There are no outstanding breaches against the tenancy
- There are no outstanding rent arrears

If the other joint tenant wishes to remain at the property they may do so whilst we establish the following under use and occupation, a weekly charge equivalent to the rent will be charged for the duration of occupation, this is known as Mesne Profits:

- Register with Devon Home Choice
- Provide relevant support evidence
- Provide household occupant information

MDH will check the remaining occupants eligibility for social housing by:

- Assessing your eligibility for the property size
- Ensuring that you do not have capital above the amount permitted under the Devon Home Choice Policy.
- Whether you are eligible to remain at the property
- We will consider what tenancy type to award you, (we do not have to give you the same tenancy that you held previously, this is at MDH's discretion)

10.9 MDH may consider offering a property to one joint tenant after the tenancy has been terminated by the other joint tenant. A feature of a joint tenancy is that it can be brought to an end by one of the joint tenants, acting unilaterally. There may be circumstances where one joint tenant does this with unfair consequences for the other joint tenant, e.g. following a relationship breakdown. In such circumstances MDH may agree to grant the other joint tenant a sole tenancy of the property, or of another vacant property.

## 11. Change to Household

11.1 Tenants are responsible for telling MDH of any changes to their household. This includes people moving in, people moving out, or the number of children in the property. If a tenant marries or changes their name, MDH will require evidence of this before updating a tenancy record. The following documents would be accepted as evidence:

- Passport / Driving licence
- Certificate of marriage, civil partnership or divorce/dissolution
- Confirm of name change by Deed Poll

## 12. Mutual Exchanges

12.1 A mutual exchange is where one tenants can 'swap' their tenancy with another tenant.

12.2 All MDH secure and flexible tenants have to right to do a mutual exchange with another MDH tenant or a tenant of another social landlord.

12.3 A mutual exchange is the process through which secure and assured tenants can assign their tenancy to another secure or assured tenant. Flexible tenants can also apply to exchange homes this way and there are provisions in place when a flexible tenants wishes to exchange homes with a secure tenants with a tenancy that came into effect prior to 1 April 2012.

12.4 Secure or assured tenants whose tenancy commenced before 1 April 2012 wishing to exchange properties with a tenants holding a flexible or fixed term tenancy are entitled to have their exchange granted through a surrender and re-grant of a new tenancy.

12.5 MDH encourages the use of mutual exchange for tenants who wish to downsize, upsize or who want to move to another location.

12.6 MDH will ensure that tenants who wish to mutually exchange are aware of any implications to their tenancy, such as:

- Any rent changes
- Any changes between security i.e. secure or assured status
- Any implications on the Right to Buy

12.7 MDH uses the [HouseExchange](#) website to allow tenants to advertise their property.

- 12.8 Once MDH receives the application form, for all parties to the exchange, the application will be processed, a property inspection completed as well as an electrical check. A letter will need to be signed confirming acceptance of the new property and its current condition.
- 12.9 If the tenant is moving to a home owned by another landlord, MDH will provide a tenant reference and will request a reference for the incoming tenant.
- 12.10 An exchange can only happen once permission has been given from all landlords. If for any reason, the exchange is not approved, the reasons for the refusal will be put in writing to the applicant.
- 12.11 Examples of when an exchange may be refused can be found in [supplement 2](#)

## 13. Granting of a Discretionary Tenancy

- 13.1 MDH may consider a discretionary tenancy in exceptional circumstances. Any new tenancy will be granted at the discretion of the Operations Manager for Mid Devon Housing and in accordance with the Devon Home Choice Policy and MDH Allocation's Policy.
- 13.2 There are circumstances where we may consider granting a discretionary tenancy:

### **If no succession rights exist:**

- MDH may consider the granting of a discretionary tenancy of the current property. This will be an introductory tenancy and will be let in accordance with MDH's allocation policy and Devon Home Choice scheme.
- Each case will be considered on its merits following receipt of a written request to remain in the property, which must be received no later than two months after the tenant's death. We may also consider use and occupation for a short time to allow the occupant to find alternative accommodation.

## 14. Tenancy Sustainment

- 14.1 MDH is committed to helping tenants to maintain their tenancy and offers a variety of ways to support tenants in achieving a successful tenancy.
- 14.2 MDH expects our tenants to maintain their property in accordance with their tenancy agreement.
- 14.3 MDH will monitor the condition of homes and neighbourhoods by carrying out regular neighbourhood walkabouts and tenancy home checks. MDH will take appropriate action to resolve any breaches effectively.
- 14.4 Where a tenant has been identified as needing additional support, the tenant will be sign-posted to external agencies such as the CAB, CHAT or floating support services.

### **Tenancy Home Checks**

- 14.5 MDH will utilise tenancy home checks to touch base with our tenants and ensure that we are delivering a good quality service. It will also provide an opportunity to:
- Update our tenant profiling, identify vulnerable tenants and offer referrals to appropriate support services when necessary
  - Pick up any repair issues and ensure the property has not been damaged or used unlawfully.
  - Ensure that our tenants are aware of the different ways they can get in touch with us and how they can be involved in tenant engagement activities.
  - Identify any potential fraud

## 15. Tackling Tenancy Fraud

### Tackling Tenancy Fraud

- 15.1 MDH will take action against any tenant found to be committing tenancy fraud. Examples of tenancy fraud include:
- Unauthorised sub-letting
  - Right to Buy fraud
  - Non-occupation by the tenant
  - Anyone obtaining a social tenancy fraudulently
- 15.2 MDH's approach is to comply with the Regulatory Framework, and take action to prevent fraud and ensure that our housing stock is only occupied by those with a legal right to be in residence.
- 15.3 MDH will work in partnership with our council departments and external agencies to tackle reports of fraud
- 15.4 Where appropriate, MDH will publicise cases of tenancy fraud
- 15.5 MDH will take enforcement actions to stop tenancy fraud and ensure social housing is being used for its intended purpose
- 15.6 MDH will continually look to improve our performance on tackling tenancy fraud.

## 16. Lodgers and Sub-letting

- 16.1 MDH recognises that there may be situations where a tenant wishes to rent out a room in their home and in this case the new occupier will be a lodger. Tenants may decide to rent out a room in the interests of relieving loneliness or for help with household bills. Tenants can take in lodgers without the consent of MDH provided this does not overcrowd the premises. Tenants would be expected to notify MDH with household details.
- 16.2 When the tenant ends the tenancy by giving a NTQ, lodging arrangements granted by the tenant end at the same time as the tenancy.
- 16.3 As per the terms of the Tenancy Agreement, tenants are not permitted to sub-let the property. It must be used as their sole or principle home.

## 17. Overcrowding and Under-occupation

- 17.1 There will be times where a tenant's home has become too big or too small for their needs. When situations like this arise, MDH will work with the tenant, to discuss the options of transferring via the Devon Home Choice, choice based lettings site and also via the mutual exchange site [HouseExchange](#)

## 18. Vulnerable Households

- 18.1 MDH is committed to providing support for tenants who have language and literacy difficulties as well as those with support needs in line with our vulnerability policy, which is available on our website.
- 18.2 When making decisions to grant, renew, extend or terminate a tenancy, we will ensure that we take into account:

- Any special circumstances and needs of the household who are vulnerable because of a protected characteristic
- Ensure that the needs and circumstances of the tenant are known before making a decision

## 19. Domestic Abuse

- 19.1 This policy does not aim to cover MDH's policy on domestic abuse. This is a separate policy which can be found on our website.
- 19.2 In situations where survivors of domestic abuse need support to remain in their existing home, and where the perpetrator is a joint tenant, MDH may consider the scope for evicting the perpetrator and allowing the survivor to return to their home with a new tenancy agreement.
- 19.3 We recognise that survivors of domestic abuse who have a lifetime social tenancy (whether a local authority secure periodic tenancy or a housing association assured periodic tenancy) may be reluctant to leave an abusive situation if it means losing their security of tenure.
- 19.4 The Domestic Abuse Act 2021 ensures that lifetime tenants who suffer domestic abuse will retain lifetime security if they are granted a new tenancy by a local authority for reasons connected with the abuse.
- 19.5 This protection applies to survivor who have a lifetime tenancy, or survivor who have had a lifetime tenancy in the past and have fled their social home to escape domestic abuse.
- 19.6 The protection also applies to the survivor of domestic abuse who have a joint lifetime tenancy and who wish to continue living in their home after the perpetrator has left.
- 19.7 The provisions apply to lifetime tenants of local authorities and private registered providers of social housing.
- 19.8 Domestic Abuse survivors have a right to apply as homeless to any council if they do not feel safe in their homes and should speak to the Housing Options Team on 01884 255255 if they wish to apply to Mid Devon District Council as homeless.
- 19.9 If a tenant is experiencing a relationship breakdown Shelter has produced a help guide which will help the tenant understand their rights. More information can be found at [Shelter England](#)

### Supporting survivors in MDH homes

- 19.10 Tenants who have suffered domestic abuse may wish to remain in, or return to, their own home, where for example the perpetrator has left or can be removed. Where it is safe to do so, MDH will encourage survivors to return to their home. It is important that survivors are supported to make an informed choice and that an appropriate risk assessment is carried out. They should not be put under pressure to remain in their home in order to reduce pressure on available housing.
- 19.11 Following an assessment of the property, and the needs and circumstances of the household, MDH may be able to make it safer for the survivor and family to remain in the property through the provision of appropriate security measures through the Sanctuary Scheme. These include: reinforced doors and windows, and extra locks; fire retardant letter boxes, smoke alarms and fire safety equipment; alarms, intercoms, and video entry systems; and the provisions of a sanctuary room from where the survivor can call and wait for the arrival of the police.

19.12 MDH will inform tenants of the option of applying to the court for an injunction against the perpetrator such as an order prohibiting the perpetrator from molesting the tenant (non-molestation orders), or an order prohibiting the perpetrator from living in the home, such as a transfer of tenancy into a sole name if joint tenants (see section 10.7). Based on individual circumstance, tenants could seek a stalking protection order.  
Further advice is provided at [paragraph 21.36 of the 2018 Homelessness code of guidance](#).

## 20. Complaints

20.1 MDH will deal with complaints in line with our complaints procedure.

## 21. Training and Awareness

21.1 New starters will receive training on our policies and procedures. As and when policies are reviewed and updated, staff are updated appropriately. The Tenant Engagement Team are actively involved to work closely with our Tenants to ensure important messages are relayed.

## 22. Monitoring and Review

22.1 The policy will be reviewed in line with changes to relevant legislation and/or good practice.

## 23. Equality and Diversity

23.1 MDH is committed to all our residents having the opportunity to reach their potential and seek to ensure our services meet all their needs. MDH seek to ensure that no section of our community is excluded from the benefits and opportunities available and that MDH always have regard to the need to eliminate discrimination, harassment, and victimisation.

## Tenancy Management Procedures (Supplement 1)

### Tenancy Types as part of MDH Tenancy Management Policy



Type of Agreement	What is it and when does MDH grant them?	How can this tenancy be brought to an end
<b>Introductory Tenancy</b>	<p>12 month 'probationary' tenancy granted to new social housing tenants. Regular reviews of the tenancy will take place in the 12-month introductory period.</p> <p>Rights include:</p> <ul style="list-style-type: none"> <li>• Basic tenancy rights</li> <li>• Right of succession and repair</li> </ul> <p>Introductory tenants cannot:</p> <ul style="list-style-type: none"> <li>× Make major improvements</li> <li>× Swap with another council or HA tenant</li> <li>× Sublet</li> <li>× Apply to buy the property through the Right to Buy scheme</li> </ul>	<ul style="list-style-type: none"> <li>• By serving a 4 weeks' NTQ</li> <li>• A possession order obtained under one of the grounds listed in Schedule 2 of the 1988 Housing Act</li> <li>• A NTQ served where the property has been abandoned or the tenant no longer occupies the property as their only or principle home</li> </ul> <p>If a tenant fails to pass the 12-month introductory tenancy and or a subsequent 6 months extension period, MDH may seek possession through service of notice under section 127 Housing Act 1996 at any time. In these circumstances tenants will be offered the right to review and must inform MDH of their intention to do so, within 14 days of the notice being served.</p>
<b>Flexible Tenancy</b>	<p>Generally granted for a fixed term of 5 years.</p> <p>In exceptional circumstances, MDH may grant a 2 year fixed term. Examples of exceptional circumstances:</p> <ul style="list-style-type: none"> <li>• Where the tenancy is offered as part of a specific scheme or programme where a shorter tenancy term might be appropriate</li> </ul>	<ul style="list-style-type: none"> <li>• By acceptance of a Tenants surrender before the end of the fixed term, provided both parties agree</li> <li>• By the Tenant serving MDH 4 weeks' NTQ</li> <li>• A possession order obtained under one of the grounds listed in Schedule 2 of the Housing Act 1988</li> <li>• A notice served where the property has been abandoned or the tenant no longer occupies the property as their only or principle home</li> </ul>



	<ul style="list-style-type: none"> <li>• In circumstances determined by the Operations Manager for Housing Services as being exceptional, for example, where the tenant has a history of ASB, non-payment of rent or where there is a change in household profile income or circumstances</li> </ul> <p>Rights include:</p> <ul style="list-style-type: none"> <li>✓ Mutual exchange</li> <li>✓ Succession rights</li> <li>✓ Assignment Rights</li> <li>✓ Make improvements (subject to permission)</li> <li>✓ Sublet</li> </ul>	<p>Before the end of the fixed term of the flexible tenancy (2 or 5 years) MDH will review the tenant circumstances. In making its decision, MDH will have regard to the following points:</p> <ul style="list-style-type: none"> <li>• Household Profile</li> <li>• Tackling under occupation</li> <li>• Income and savings</li> <li>• Adapted properties</li> <li>• Stock disposal/refurbishment</li> <li>• Mixed communities</li> <li>• Tenancy conduct</li> <li>• Rent arrears</li> </ul> <p>If MDH decide not to renew a flexible tenancy, at the end of the fixed term, the tenant will be notified of the reasons for the decision and their right to request a review of the decision.</p>
<p><b>Secure Tenancy</b></p>	<p>A lifetime tenancy has no end date. This is the most secure type of tenancy granted. These will be granted to:</p> <ul style="list-style-type: none"> <li>• existing MDH secure tenants,</li> <li>• a secure tenant, an assured tenant of a social landlord,</li> <li>• an introductory tenant who has successfully completed their trial period and</li> <li>• existing secure tenants who need to move or have recently moved from their social tenancy to escape domestic abuse</li> </ul> <p>Rights include:</p> <ul style="list-style-type: none"> <li>✓ Make improvements to your home (subject to permission)</li> <li>✓ Mutual Exchange</li> <li>✓ Right to Buy</li> <li>✓ Succession Rights</li> <li>✓ Assignment Rights</li> </ul>	<ul style="list-style-type: none"> <li>• By acceptance of a tenants surrender</li> <li>• By the tenant serving MDH 4 weeks' NTQ</li> <li>• A court order for possession takes effect under one of the grounds specified in Schedule 2 of the Housing Act 1985 <a href="#">Schedule 2 of the HA 1985</a></li> <li>• If the property is no longer occupied by the tenant as their sole and principle home</li> </ul>

	<ul style="list-style-type: none"> <li>✓ Right to claim compensation for any improvements carried out</li> <li>✓ Take in lodgers (subject to permission)</li> </ul>	
<p><b>Licence Agreement</b></p>	<ul style="list-style-type: none"> <li>• Agreement for use and occupation</li> <li>• Occupant does not have exclusive use of the property</li> <li>• This agreement provides basic occupation rights</li> <li>• These licences are excluded from the Protection of Eviction Act</li> <li>• Where the occupant does not have exclusive use of the property and shares communal facilities such as a bathroom, kitchen or living space with other occupants (e.g. Ivor Macey House)</li> <li>• For temporary decants</li> <li>• For homeless clients who are provided with temporary accommodation</li> </ul>	<p>Homeless applications will not be subject to protection under the Protection from Eviction Act 1977 when granted a licence to occupy accommodation under the following sections of the Housing Act 1996:</p> <ul style="list-style-type: none"> <li>• Section 188 (accommodation pending inquiries) or</li> <li>• Section 190 (duties to an applicant who has been found intentionally homeless)</li> </ul> <p>If there is a breach of the licence agreement, depending on the severity, accommodation can be ended immediately.</p>

## Grounds to Refuse a Mutual Exchange as part of the Tenancy Management Policy

(Supplement 2)



Schedule 3 of the Housing Act 1985	Schedule 14 of the Localism Act 2011	Reason	Grounds for refusing consent to exchange
	Ground 1	Rent Arrears	When any rent lawfully due from a tenant under one of the existing tenancies has not been paid
	Ground 2	Breach of Tenancy	When an obligation under one of the existing tenancies has been broken or not performed
Ground 1	Ground 3	Possession Order	A court order for possession or a suspended possession order has been made for either property
Ground 2	Grounds 4 & 5	NOSP served or possession proceedings have commenced for secure tenancy under grounds 1-6	The Landlord has served a notice of seeking possession and the notice is still in force, or possession proceedings have commenced
Ground 3	Ground 7	Under Occupation	The property is substantially larger than reasonably needed by the proposed assignee
Ground 4	Ground 8	Suitability	The property is not reasonably suitable to the needs of the proposed assignee and their household
Ground 5	Ground 9	The property is part of a building that is used for accommodation other than housing accommodation and the property has been part of employment	The property is part of or close to a building that is held for non-housing purposes, or it is situated in a cemetery and was let in connection with employment with the landlord or with the local authority, a new town corporation, housing action trust, an urban development corporation, or the governors of a grant-aided school
Ground 6	Ground 10	Conflict of charity objectives	The landlord is a charity and the proposed assignee's occupation of the property would conflict with the objects of the charity
Ground 7	Ground 11	Adapted Property	The property has been substantially adapted for the occupation by a physically disabled person, and if the assignment went ahead a physically disabled person would not be living there.
Ground 8	Ground 12	Property is let for those with special needs	The landlord lets properties to people in difficult circumstances (other than merely financial circumstances) and the proposed assignee would not fulfil these criteria.

Ground 9	Ground 13	Property is let for those with special needs and the support provision is provided in close proximity to the property	The property is let to people with special needs and there is a social service or special facility nearby to the properties to assist people with those special needs, and if the assignment goes ahead no person with those special needs would be living there.
Ground 10	Ground 14	Property subject to a management agreement	The dwelling is the subject of a management agreement where the manager is a housing association of which at least half the members are tenants subject to the agreement and at least half of the tenants of the dwellings are members of the association, and also that the proposed assignee is not such a member nor is willing to become one
Additional Ground (Housing Act 2004)	Ground 6		An injunction order under section 153 of the Housing Act 1996 or an anti-social behaviour order or a Demotion Order or a possession order under Ground 2 for secure tenancies or Ground 14 for assured tenancies is in force or an application for one of those is pending either against the tenant, the proposed assignee or a person who resides with either of them.
		Apply conditions to the Exchange	For example, clear rent arrears before the exchange takes place
		MDH would be in breach of another agreement	By allowing the exchange, MDH would be in breach of the following agreements in respect of the property: <ul style="list-style-type: none"> <li>✓ Section 106 local connection restrictions</li> <li>✓ Any planning agreement restrictions which affect the local allocations or lettings policy</li> <li>✓ Where there is a head-lease with any covenants binding the tenancy</li> <li>✓ A Housing and Communities Agency agreement in respect of Affordable Rent</li> </ul>
		Exceptional Circumstances	Exceptional circumstances where it would not be reasonable to consent to the exchange