



clydebank housing association

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## 1.0 Policy Aims

The Association's aim is to relet properties as quickly as possible in order to minimise rent loss resulting from abandoned properties. The Association recognises the need to have a clear and effective Abandonment Policy and procedures to achieve this. Within this Policy the Association identifies the following as its key aims:

- to determine whether a property is abandoned quickly; and
- to minimise the rent loss on an abandoned property; and
- to minimise the time a property is unoccupied; and
- to minimise the cost of storing belongings; and
- to minimise the cost of repairs; and
- to protect the Association when repossessing a property

## 2.0 Objectives

The approval of this Policy supports the following objective contained in the Association's Internal Management Plan (IMP):

IMP section 2.1 (2): to manage the houses provided, in a sensitive and cost effective manner, for the benefit of the local community.

## 3.0 Abandoned Property Issues

### 3.1. Identification of abandoned properties

As a general rule, all staff of the Association in the course of their duties will be alert to any properties that have the appearance of being empty and will either initiate the Abandonment procedure within the timescales set, or notify the appropriate section to do this. The Housing Management department will be directly responsible for starting and managing any abandonment proceedings.

### 3.2 Legislation

Part 2 of the Housing (Scotland) Act 2001 allows a landlord to recover possession of a house that they believe has been abandoned by the tenant. Sections 17-21 outline the guidance and regulations the landlord must follow if doing so.

Where the landlord has reasonable grounds for believing that a tenant has abandoned the tenancy landlords are allowed to enter the house at any time to make the house and any fixtures and fittings secure against vandalism. Section 18 sets out the procedures, which must be followed by a landlord wishing to recover possession of an abandoned house.

The landlord must:

- give four weeks notice in writing that it intends to terminate the tenancy
- make sufficient enquiries to satisfy itself that the house is unoccupied and that the tenant has no intention of re-occupying it
- serve a further notice on the tenant, which brings the tenancy to an immediate end and allows the landlord to take possession of the house without further proceedings

By 'sufficient enquiries' it is expected that the landlord makes reasonable enquiries of family, neighbours, employers, health boards, police, schools etc., to establish if someone has abandoned the tenancy. All details of investigations will be recorded on a standard form.

### 3.3 Taking possession of a property

Before taking repossession of an abandoned property every attempt will be made by the Association to satisfy itself that the house is unoccupied and that the tenant has no intentions of re-occupying it. Investigation will include all avenues as listed in section 3.2 above.

If rent is being paid, abandonment procedures should rarely begin. There may however be supporting reasons for carrying out abandonment proceedings even when rent is being paid, for example where there is clear evidence that the tenant is living elsewhere, or that an illegal sub-let is in place.

If staff have reasonable grounds for believing that a property has been abandoned they can forcibly enter the house to make it secure. This will only be done where security or other circumstances make it necessary. Staff will serve an official twenty-eight day abandonment notice. If there is no contact from the tenant at the end of this period the Association has a legal right to end the tenancy immediately after this notice expires. Throughout the 28 day period staff will continue to make reasonable attempts to contact the tenant. Where another address is known for the tenant a copy of the notice will be served there, either by staff or Sheriff Officers depending on the location.

Once the Association is in legal possession of the property the locks will be changed, an inventory will also be taken of any personal belongings left and photographs will be taken of each room. Photographs will also be taken of any damage to the property. This process will be carried out by two members of staff. The tenant has the right to make an application to the Sheriff against the repossession within six months from the day after the 28-day notice expires.

The Association will secure the safe custody of any property found in the house, as long as we consider its value to be greater than the cost of storing it for a six month period plus the value of any rent or other arrears the tenant owes us in relation to their tenancy. We will deliver any such property to the tenant as long as they have paid for the costs of storing it, and made arrangements for and paid for the delivery of it to them. We have the right to make such a charge, and to dispose of any such property if the tenant has not made arrangements for and paid for its delivery within six months from the date of storage.

If we have stored goods and a tenant contacts us to have them uplifted but can't pay for them, the senior housing officer will decide whether to deliver them or not taking into account the cost of delivery against the cost of storage.

In cases where there are any goods other than rubbish, we will use the services of Sheriff Officers to value the items left behind. This ensures the Association is protected to a degree should subsequent contact be made by the tenant and claims made regarding the value and/or inventory of goods found at the time.

The tenant has a right to appeal to Court for six months following the repossession of the property on the grounds that:-

- a) the landlord did not follow the appropriate procedure,
- b) the landlord did not have reasonable grounds for finding the property had been abandoned,
- c) the landlord was wrong in so finding and the tenant had reasonable grounds for failing to notify the landlord of his intentions to occupy his home.
- d) The landlord wrongfully did not store goods left behind

If a former tenant challenges the action taken by the Association, we will refer to the guidelines within the Housing (Scotland) Act 2001. Where necessary, further guidance from the Association's solicitor will be sought in order to conclude the matter.

### 3.4 Terminating a joint tenancy

The Housing (Scotland) Act 2001 introduced new legislation concerning joint tenancies where one partner had abandoned their tenancy. If the Association has reasonable grounds to believe that a joint tenant has abandoned their tenancy, that tenant will be given notification in writing that their interest in the property will be terminated in twenty-eight days. A copy will also be served at any other known address for the joint tenant.

If there is no response from the tenant at the end of this 28-day notice, and the Association has reasonable grounds for believing that the tenant has abandoned the property, a second notice will be served which will terminate that joint member's interest in the tenancy after a further eight weeks. Therefore the joint tenant's interest in the tenancy will end eighty four days following the serving of the first notice. It should be noted that the second notice does not terminate the tenancy, which will continue in the remaining tenant's name.

If the tenant who has abandoned leaves personal belongings in the property, and the remaining member does not want them, the Association has no legal obligation to remove these belongings from the property; this responsibility will lie with the remaining tenant.

A joint tenant can at any time voluntarily end his or her interest in the tenancy by giving twenty-eight days written notice to the remaining joint member and the Association. This notice will not terminate the tenancy, which will continue in the remaining tenant's name.

### 3.5 Remaining occupant not a tenant

If a tenant abandons their property and leaves behind an occupant(s) over the age of sixteen, who is not a tenant, the Association will consider each case individually as to what action to take. Each case will be considered on its individual merits, with the decision based on, but not exclusive to:

- the relationship the occupant had with the member abandoning the property
- the length of time the occupant has resided in the property being abandoned
- the size and type of property being abandoned

### 4.0 Training

The Association, through its Internal Management Plan, is committed to training and developing staff so that they have a good knowledge of the procedures and systems in place for managing abandoned properties that meets the expectations of tenants, members of the public, colleagues and external organisations.

### 5.0 Equal Opportunities

The Association will ensure that in implementing its Abandonment Policy it will not unfairly discriminate against any individual, household or group on the

grounds of gender, gender identity or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions as outlined in the 2010 equalities act.

## 6.0 Monitoring & Reporting

The Housing Management Sub Committee has delegated responsibility from the Management Committee to monitor the management of abandonments. It will be the responsibility of the Housing Manager to provide a monthly report to the Housing Management/Maintenance Sub Committee on the number of abandonments completed.

A record of progress will be kept of each abandoned property to ensure that every stage of the process is followed and completed to the target times set.

## 7.0 Review

The targets for monitoring the progress of abandoned properties will be reviewed where necessary, taking into account any legislative or other changes.

The Abandonment Policy will be reviewed every five years or sooner if legislation changes dictate this.

## 8.0 Legal Framework

In approving and implementing the Abandonment Policy the Association aims to comply with the following legislation and statutory documents:-

- Housing (Scotland) Act 2001
- Schedule 7 Part1 of Housing (Scotland) Act 2001
- Data Protection Act 1998
- Disability Discrimination Act 1995
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Sex Discrimination Act 1975
- Human Rights Act 1998
- Equalities Act 2010
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Scottish Secure and Short Scottish Secure Tenancy Agreement

## 9.0 References

The following publications have been referred to, to ensure the Abandonment Policy and associated procedures are based on good housing practice:-

- Performance Standards for Social Landlords and Homeless Function - COSLA, Communities Scotland and Scottish Federation of Housing Associations (SFHA), 2006 – Activity Standard 1.5 Void Management
- Housing Management Standards Manual – Chartered Institute of Housing.
- Raising Standards in Housing – SFHA July 2002.
- Housing (Scotland) Act 2001

## 10.0 Related Policies and Documents

- Void Policy and procedures
- Estate Management Policy and procedures
- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- Internal Management Plan
- Rent arrears policy and procedures