



Abandoned Property Policy

POLICY IMPLEMENTATION CHECKLIST	
Policy Guardian:	Area Housing Manager
Author:	Area Housing Manager
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Data Protection compliant:	Yes
Health & Safety compliant:	Yes
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KPI's/reporting arrangements implemented:	Not required
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CORDALE HOUSING ASSOCIATION LTD

POLICY STATEMENT: ABANDONED PROPERTY MANAGEMENT

1 INTRODUCTION

- 1.1 The Housing (Scotland) Act 2001 and the Tenancy Agreement (section 6.4) gives Cordale Housing Association (CHA) the right to enter properties which are unoccupied and where there are reasonable grounds to believe that it is abandoned in order that we can secure the property against vandalism and repossess the dwelling for future letting.
- 1.2 Cordale Housing Association's policy is to re-let properties as quickly as possible in order to minimise rent loss resulting from abandoned properties and to follow the guidance as detailed in the Scottish Secure Tenancy (Abandoned Property) Order 2002.

2 AIMS AND OBJECTIVES OF THE POLICY

- 2.1 The overall aim of this policy is to identify, repossess and relet properties as quickly as possible in order to minimise the rent loss resulting from abandoned properties. The specific objectives of this policy are to:
- make the best use of its housing stock by ensuring empty abandoned properties are able to be re-let quickly and minimise the time a property is unoccupied
 - reduce estate management problems arising from an unoccupied property
 - determine quickly whether a property is abandoned
 - minimise the potential rent loss
 - minimise costs to the Association e.g. of repairs, storing belongings etc.
 - protect the rights of tenants and the Association when repossessing a property

3 LEGAL FRAMEWORK

- 3.1 The provisions and implementing of the Abandonment Policy aims to comply with the following legislation and statutory documents:-
- Housing (Scotland) Act 2001
 - Housing (Scotland) Act 2014
 - Scottish Secure Tenancy (Abandoned Property) Order 2002
 - 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
 - Matrimonial Homes (Family Protection) (Scotland) Act 1981

- Scottish Secure and Short Scottish Secure Tenancy Agreement
- The Scottish Social Housing Charter
- Equalities Act 2010

3.2 Related Policies and Procedures which compliments this policy include:

- Void Policy and procedures
- Complaints Policy and procedures
- Estate Management Policy and procedures
- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- CHA Business Plan
- Recharge Policy and Procedure

4 Establishing if the property has been abandoned

4.1 Before taking repossession of an abandoned property every attempt will be made by CHA to satisfy itself that the house is unoccupied and that the tenant has no intentions of re-occupying it. By 'sufficient enquiries' it is expected that CHA makes reasonable enquiries, for example, of family, neighbours, employers, health boards, police, local authority, schools etc., to establish if the tenant has abandoned the tenancy. The Housing Officer should complete the Abandonment Checklist (**appendix 6**) to record all actions taken in all potential Abandonment situations.

Housing Officers will use the following as a guide:-

- Does the house look abandoned? Look through windows and letterbox
- Is there a build-up of mail behind the door or are there newsletters/leaflets struck in the letterbox?
- Check with neighbours when the tenant was last seen by them. Check if they know the whereabouts of the tenants or when lights were last seen on or heard noises from the property.
- Check the rent account for the last payment made. If Housing Benefit is paid directly to CHA, check with the local authority if there has been a change of the tenant's circumstances they are aware of.
- Check when the last repair was requested or carried out.
- Check with local authority or other RSL (Registered Social Landlords) – the tenant may have been rehoused.
- The tenant may have daily services e.g. home help, district nurse – contact the service to establish when they last seen the tenant.
- If applicable, check the tenant's housing application form for any details on next of kin, family members etc.

- Contact any other relevant agencies e.g. Police Scotland, Social Work Department, employer.
- 4.2 The Housing Officer will initially call at the property leaving a card stating they believe the property to be abandoned and asking the tenant to make contact within 7 days. The Housing Officer should diary to check if the tenant has made contact.
- 4.3 If the Housing Officer has reasonable grounds for believing that a property has been abandoned and is in danger from vandalism, gas safety, frost damage or water penetration, the Housing Manager can authorise that the property is forcibly entered to make it secure. Any proposed forced entry should be notified to the Police in advance advising our concerns and two staff should be present with the contractor at all times until the property is secured.

5 Keys Returned to CHA with no Termination Notice

In these circumstances the Abandonment Procedure will be followed.

6 Abandonment

- 6.1 Where it is established that the property has been abandoned, and the tenant has not made contact, the Housing Officer will serve a statutory Notice of Termination of Scottish Secure Tenancy giving the tenant 28 days' notice (**appendix 1a**). The notice should be hand delivered and delivery witnessed by another staff member. Both staff members should sign and date the duplicate copy (**appendix 1b**) of the notice for the tenant file. The notice should be served separately on each tenant and joint tenant.
- 6.2 The Housing Officer will note in the diary to check on the eve of the 28 days expiry if the tenant has been in contact. The Maintenance Officer should also be advised at this time. If there is still 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. The Housing Officer will hand deliver a final notice on the 29th day advising the tenancy is terminated (**appendix 2**).

7 Repossession of the property

- 7.1 Once the Association is in legal possession of the property the Housing Officer and the Maintenance Officer should arrange to jointly visit the property to change the locks. This should be done within at least 2 working days of the tenancy ending.
- 7.2 The Maintenance Officer will also carry out a void inspection and instruct any works required to meet the minimum letting standards.

8 Personal Belongings found in the abandoned property

- 8.1 A full inventory and photographs of all belongings left in the abandoned tenancy and outbuildings such as a garage or garden shed will be taken by the Housing Officer (**appendix 3**), including photographs of anything significant and record any damage to the property,. The Housing Officer will sign the inventory and this should be witnessed by the Maintenance Officer.
- 8.2 If there is anything in the property which causes concerns around potential criminal activity, for example illegal drugs present, dangerous weapons, illegal occupation, or stolen property, this will be reported to the police immediately. If there are any abandoned animals within the property, this will be reported to the Scottish Prevention of Cruelty to Animals (SPCA) and removal will be arranged.
- 8.3 Where valuable removable items are identified, large sums of cash or jewellery, these should be photographed in detail and jointly signed off in the inventory. The items should be transferred from the property to the Association safe for safe keeping.
- 8.4 The inventory and photographs should be saved and clearly identified as information relating to an Abandonment in the House File on Word as this will act as the required evidence for the entries on CHA's Register of Abandonments noted within QL. Notes should also be made on QL.
- 8.5 The Housing Officer will provide comment on the condition of the belongings and any supporting photographic evidence should be signed on the inventory. However, where the tenancy and belongings are in a filthy and/or infested condition, the Housing Officer should make an inventory and take pictures of items which can be seen. A note should be made on the inventory that only a visual inspection was made along with the reasons for this. Any belongings which are in a filthy and/or infested condition shall be disposed of.
- 8.6 No staff member will touch any hazardous items such as drugs, used needles or dangerous weapons found in the abandoned property. However, the appropriate agencies should be contacted as soon as possible.
- 8.7 Property must be stored for a minimum period of six months unless deemed of less value than any debt owed or costs incurred to date and for storage. The storage costs are passed on to the former tenant of the property.
- 8.8 Property which in the opinion of the Housing Officer carrying out the inventory is of insufficient value to cover the costs of transport can recommend the disposal. The Housing Officer should assess whether storage costs will be less than the possible rent loss over this period before deciding on this course of action and endorse the recommended action on the Inventory.

8.9 Property which may realise a resale value sufficient to cover the costs of transport and storage for six months should be stored for this period.

8.10 A notice, with the inventory attached, will be served on the former tenancy at the former tenants address (the abandoned property), if no other address is known (pinned on the front door). It must advise that the property is available for collection on receipt of payment of all storage costs due within the period specified in the Notice. (appendix 2 and appendix 3)

9 Collection of property

9.1 The former tenant may collect the property at the place specified in the notice, upon payment of any storage costs. If the property is being stored privately it is essential to make arrangements with the company not to hand over the belongings without CHA's consent. The former tenant should contact the Housing Officer who will determine the payment required for transport and storage costs.

10 Disposal of property

10.1 Unclaimed property of insufficient value to recover the cost of storage may be disposed of after one month either by sale or disposal. The Housing Manager should endorse the recommendation on the inventory in these cases. Unclaimed property which has been stored for six months may be sold to meet CHA's expenses for transport and storage. Any remaining credit should be put towards rent arrears and rechargeable repairs, any outstanding credit should be credited to the former tenants account and refunded if the former tenant's whereabouts become known, otherwise this shall be written off.

11 Landlords Rights by Hypothec

11.1 A landlord's hypothec is a common law right over all moveable property in a house, with certain exceptions, when there is rent due. The landlord can hold on to this property until the rent is paid. It is CHA's policy not to hold the following property:

- beds and bedding material
- table and chairs
- furniture or items for cooking, storing, eating food, providing heating
- clothes
- tools of trade to be used to earn a living

Nothing in the Tenancy Agreement overrides the right to hold property found on the premises as security for any arrears of rent outstanding.

The Housing Officer will contact the Association's solicitor for guidance on how to implement the landlord's rights of hypothec in each case deemed appropriate.

12 Rechargeable Repair Work

In the main, the Association shall carry out repair work to the abandoned property for which it is responsible in accordance with tenancy or lease agreements. Charges shall be levied where a repair is necessary as a result of the wilful, negligent or accidental actions of the tenant's household (rather than through fair wear and tear). Further information on the process for charging is provided in the Association's Recharges Procedures.

13 Terminating a joint tenancy

13.1 The Housing (Scotland) Act 2001 introduced new legislation regarding joint tenancies where one partner has 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 within twenty-eight days (**appendix 4**). This notice must be copied to each of the other joint tenants (i.e. not just to the abandoning tenant).

13.2 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 member has abandoned the property, a second notice will be served which will terminate that joint tenant's interest in the tenancy after a further twenty-eight days. (**appendix 5**)

13.3 The joint tenant's interest in the tenancy will end fifty six 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.

14 Tenant's right to recourse

14.1 Under Section 19 of the Housing (Scotland) Act 2001, a tenant who is aggrieved by the termination of their tenancy under Section 18(2) may raise legal proceedings within 6 months after the end of tenancy date.

14.2 Tenants have six months from the date of repossession – eight weeks from the date of service of the Notice in the case of abandonment by a joint tenants – in which to complain to the Courts. If the Court holds that CHA failed to comply with the statutory procedures, or did not have reasonable grounds for finding that the property was abandoned, the Court may instruct the tenancy to

continue (if the house has not been relet) or, alternatively, will ensure that CHA makes alternative accommodation available to the tenant.

15 Remaining occupant not a tenant / joint tenant

- 15.1 If a tenant abandons their property and leaves behind any occupant(s) over the age of sixteen, who is not a tenant, the property is not deemed in law as being abandoned as it continues to be occupied. Legal advice should be sought from the Association's solicitors in such cases.
- 15.2 If the person remaining is the spouse of the tenant, then they may have occupancy rights to the property under the Matrimonial Homes (Family Protection) (Scotland) Act 1981. In addition, a co-habitee, a son/daughter of the tenant who is over 16, or a carer may be entitled to succeed the tenancy. Such succession rights should be compliant with the Associations Allocations Policy.

16 Squatters

- 16.1 The Trespass (Scotland) Act 1865 makes it unlawful for a person to lodge in any premises or to occupy or encamp on private land without the consent and permission of the owner or legal occupier.
- 16.2 Where squatters occupy a CHA property, found to be abandoned, the Association will seek legal advice from its solicitors to instigate court proceedings immediately to remove the squatters from the premises.

17 Register of Abandoned Properties

CHA does not hold a separate register – the information can be found in the House File on Word and in the main database on QL. Reports can be run to identify those properties which have been abandoned.

18 Monitoring & Reporting

An annual report to the Management Board in the form of the Annual Return on the Charter will be provided on the following:-

- number of tenancies terminated following abandonments
- Percentage of new tenancies sustained for more than a year, by source of let
- Percentage of rent due lost through properties being empty during the last year
- Average length of time taken to relet properties in the last year

19 Review

The Abandonment Policy will be reviewed every three years, unless recommended change is required through analysis of the abandonment process, feedback from tenants, or a change in legislation.

<<Date>>

<<Name>>
<<Address>>
<<Address>>
<<Address>>
<<Address>>

Dear <<Salutation>>

**Section 18 of the Housing (Scotland) Act 2001:
Notice of Termination of Scottish Secure Tenancy**

I have reason to believe that your dwelling at <<Address>>
, is unoccupied and that you do not intend to occupy it as your home.

I therefore give you notice that if you intend to occupy the house as your home, you must inform me in writing within 28 days of the date shown at the top of this letter.

I further advise you that if it appears to the Association at the end of the 28 days that you do not intend to occupy the house as your home, your tenancy of the house will be terminated with immediate effect.

In accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002, if there is property in the house, I hereby give notice that you must collect it from the house within 28 days of the date shown at the top of this letter.

If you have not collected the property within 28 days, it will be disposed of unless its value exceeds the cost of storing it plus any arrears you owe us in connection with the tenancy, in which case we will store it for six months from the date of repossession of the house. If you have not collected the property, and paid us for its storage and delivery to you, within six months of the date of repossession of the house, we will dispose of it.

Yours sincerely

<<Name>>
Housing Officer
Direct dial: <<Phone No.>>
e.mail: <<Email address>>

FILE COPY

Served by:

At _____ am/pm on

Witness:

Date:

**Section 18 of the Housing (Scotland) Act 2001:
Notice of Termination of Scottish Secure Tenancy**

I have reason to believe that your dwelling at _____ is unoccupied and that you do not intend to occupy it as your home.

I therefore give you notice that if you intend to occupy the house as your home, you must inform me in writing within 28 days of the date shown at the top of this letter.

I further advise you that if it appears to the Association at the end of the 28 days that you do not intend to occupy the house as your home, your tenancy of the house will be terminated with immediate effect.

In accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002, if there is property in the house, I hereby give notice that you must collect it from the house within 28 days of the date shown at the top of this letter.

If you have not collected the property within 28 days, it will be disposed of unless its value exceeds the cost of storing it plus any arrears you owe us in connection with the tenancy, in which case we will store it for six months from the date of repossession of the house. If you have not collected the property, and paid us for its storage and delivery to you, within six months of the date of repossession of the house, we will dispose of it.

Yours sincerely

Housing Officer
Direct Dial
Email:

<<Date>>

<<Name>>

<<Address>>

<<Address>>

<<Address>>

<<Address>>

Dear <<Salutation>>

**Section 18 of The Housing (Scotland) Act 2001:
Notice of Termination of Scottish Secure Tenancy**

On <<Date of first notice>> the Association served on you a notice requiring you to inform us in writing within 28 days that you intended to occupy the house at <<Address>> as your home.

The Association is now satisfied that the house is unoccupied and that you do not intend to occupy it as your home. We therefore give you notice that the tenancy has been terminated with effect from **<<Date of termination>>**.

If you have not collected the property within 28 days, it will be disposed of unless its value exceeds the cost of storing it plus any arrears you owe us in connection with the tenancy, in which case we will store it for six months from the date of repossession of the house. If you have not collected the property, and paid us for its storage and delivery to you, within six months of the date of repossession of the house, we will dispose of it.

Yours sincerely

<<Name>>

Housing Officer

Direct dial: <<Phone No.>>

e.mail: <<[Email](#) address>>



Abandonment Procedure – Items Discovered on Entering Property

Entry was gained to the property at (address) _____

On (date) _____ at _____ The following contents were found as detailed below:

ID No.	Situation (i.e. room)	Name of Item	Description

(continue on second sheet if necessary)

Signature _____ Position _____
 (for and on behalf of Caledonia Housing Association)

Date of signing _____

All above witnessed by and checked by: _____ (name)

Position _____ Date of signing _____

Page ____ of ____

Continued

ID No.	Situation (i.e. room)	Name of Item	Description

Page ____ of ____

[Date]

[Name and address of joint tenant]

Dear [name]

**Section 20 of the Housing (Scotland) Act 2001:
Notice of Termination of Interest in Scottish Secure Tenancy**

I have reason to believe that you are not occupying the house at.....[address] and that you do not intend to occupy it as your home.

I therefore give you notice that if you intend to occupy it as your home, you must inform me in writing with 28 days of the date shown at the top of this letter.

I further inform you that if it appears to the Association at the end of the 28 days that you do not intend to occupy the house as your home, we will serve on you a further notice bringing your interest in the tenancy to an end from the date specified in that notice.

Yours sincerely

<<Name>>
Housing Services Officer
Direct dial: <<Phone No.>>
e.mail: <<[Email](#) address>>

[Date]

[Name and address of joint tenant]

Dear [name]

**Section 20 of the Housing (Scotland) Act 2001:
Notice of Termination of Interest in Scottish Secure Tenancy**

On.....[date of first notice] the Association served on you a notice requiring you to inform us in writing within 28 days that you intended to occupy the house at.....[address] as your home.

The Association is now satisfied that you are not occupying the house and that you do not intend to occupy it as your home. We therefore give you notice that your interest in the tenancy will be ended on

Yours sincerely

<<Name>>
Housing Officer
Direct dial: <<Phone No.>>
e.mail: <<[Email](#) address>>

Abandonment Checklist

Tenants Name(s)	
Address	
Tenancy Reference No.	
Date aware of suspected abandonment	
Reasons for suspected abandonment	
Arrears balance/date	

ENTRY PRIOR TO REPOSSESSION FOR SAFETY & SECURITY ONLY

Date entry gained	
Officer/s in attendance	
What measures were taken?	
If lock(s) changed, where can keys be located?	

Action	Date	Date QL updated	Officer/s
1 st Visit and left card Appendix 1A			
First letter and countersigned – Appendix 1B			
Termination letter – Appendix 2			
Inventory and photographs			
Date of termination			
Advise CST of void			

Void core fitted			
QL updated			
Date of visit to confirm residency			
Items in storage/inventory filed			
Date of cancellation			
Other agencies/contact involved (name/address/phone no.)			

Checks	Outcome/action	Date	Officer/s
Neighbours			
Home visits			
Rent account – contact made with or from tenant?			
Repairs – contact made with or from tenant?			
Community Safety team			
Any contact on QL			
Relatives/friends			
Police Scotland			
Prison Service			
Energy supplier/Meter Readings			
Social Work Dept			
Any other checks			

COMPLETED BY :

DATE SAVED IN HOUSE FILE: