



***"Offering our community more than a home"***

## Abandoned Homes Policy

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Last Approved:	February 2018
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Next Review date:	February 2024

### **CHA Objectives:**

- To provide quality, affordable housing that meets the changing needs of our customers and to ensure fair access to housing within our area.
- To manage the houses provided, in a professional and cost effective manner, for the benefit of our local community and the environment.
- To provide a first class maintenance service which offers value for money and ensures the comfort and safety of our residents while achieving high levels of satisfaction

### **Regulatory Standards:**

- The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.
- The RSL is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these objectives.
- The RSL manages its resources to ensure its financial well-being and economic effectiveness.
- The governing body bases its decision on good quality information and advice and identifies and mitigates risks to the organisation's purpose.

***This policy can be made available on request in a variety of different formats, such as on tape, in large print and translated into other languages***

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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
- to minimise the rent loss on an abandoned property
- to minimise the time a property is unoccupied
- to minimise the cost of storing belongings
- to minimise the cost of repairs
- to protect the Association and other residents when repossessing a property
- To offer support to tenants found to be having difficulties in sustaining their tenancy during the process

## 2.0 Abandoned Property Issues

### 2.1. 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 Services department will be directly responsible for starting and managing any abandonment proceedings.

### 2.2 Legislation

Part 2 of the Housing (Scotland) Act 2001 (leading to the 2014 Act) 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 and security issues are evident, e.g. open windows or doors etc, 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 recover and 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. The Tenancy Sustainment Officer will also be asked to visit throughout the investigation phase.

### 2.3 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 2.2 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 and witness 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 Housing Services Manager 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 or low value items, 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 (2014). Where necessary, further guidance from the Association's solicitor will be sought in order to conclude the matter.
  - Where contact is made with the tenant and it is ascertained that the abandonment process is not necessary, immediate referral will be made to the Association's Tenancy Sustainment Officer and (if necessary) the Welfare Rights Officer

## 2.4 Terminating a joint tenancy

The Housing (Scotland) Act 2001 (2014) includes 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.

## 2.5 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

In all such cases, sub-committee approval for recovery action, rehousing or assignation of the tenancy will be sought by the Head of Housing Services or the Housing Services Manager.

### 3.0 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.

### 4.0 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. An equalities impact assessment has been carried out and can be found at the end of this policy.

### 5.0 Monitoring & Reporting

The Housing Services Sub Committee (HSSC) has delegated responsibility from the Management Committee to monitor the management of abandonments. It will be the responsibility of the Head of Housing Services to provide a monthly report to the HSSC 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.

### 6.0 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 three years or sooner if legislation changes dictate this.

### 7.0 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, 2014
- Schedule 7 Part1 of Housing (Scotland) Act 2001 (2014)
- Data Protection Act 2018
- Disability Discrimination Act 1995
- Equalities Act 2010

- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Scottish Secure and Short Scottish Secure Tenancy Agreement

## 8.0 References

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

- Scottish Social Housing Charter 2017
- Housing (Scotland) Act 2001 (2014)

## 9.0 Related Policies and Documents

- Void Policy and procedures
- Estate Management Policy and procedures
- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- CHA Business Plan
- Rent arrears policy and procedures
- Tenancy Sustainment Policy

## Clydebank Housing Association Equality Impact Assessment Tool



Name of the <b>policy / proposal</b> to be assessed	Abandoned Homes	Is this a <b>new policy / proposal or a revision?</b>	Revised policy
Person(s) responsible for the assessment	Joe Farrell (Head of Housing Services)		
<b>1. Briefly describe the aims, objectives and purpose</b> of the policy / proposal	To outline the need and process for the controlled recovery of tenancies in line with legislation where the tenant has absconded and failed to terminate their tenancy in the required manner (abandoned tenancy). To protect CHA and other residents from the financial and physical/social impacts of the tenancy not being recovered.		
<b>2. Who is intended to benefit</b> from the policy / proposal? (e.g. applicants, tenants, staff, contractors)	Tenants, other local residents, the local community, contractors and staff.		
<b>3. What outcomes are wanted</b> from this policy / proposal ? (e.g. the benefits to customers)	To provide customers and staff with details and assurance that abandoned properties will be investigated and recovered in a timeous manner within legislation guidance. This should lead to sound financial management of the process and minimise the impact on both tenancy sustainment and rent charges.		



4. Which **protected characteristics** could be **affected** by the proposal? (*tick all that apply*)

Minority Ethnic   
  Gender   
  Disability   
  Sexual Orientation   
  Age   
  Religion   
  Transgender /Transsexual   
  Marriage /Civil Partnership   
  Pregnancy /Maternity

5. If the policy / proposal is not relevant to any of the **protected characteristics** listed in part 4, state why and end the process here.

	Positive impact(s)	Negative impact(s)
<p>6. Describe the <b>likely positive or negative impact(s)</b> the policy / proposal could have on the groups identified in part 4</p>	<p>Support service (direct or indirect) will positively impact tenants by assisting them sustain their tenancy.</p>	<p>Tenants may lose their homes by failure to contact the Association and resolve any issues.</p>
<p>7. What <b>actions</b> are <b>required</b> to address the impacts arising from this assessment? (<i>This might include; collecting additional data, putting monitoring in place, specific actions to mitigate negative impacts</i>).</p>	<p>End of tenancy monitoring, time within tenancy monitoring, all through ARC return.</p>	

Signed: Joe Farrell

(Job title): Head of Housing Services

Date the Equality Impact Assessment was completed: 14 April 2021

**Please attach the completed document as an appendix to your policy / proposal rep**