

Tenants First Housing Co-operative

Abandonment Policy

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1.0 Policy Aims

The Co-operative's aim is to relet properties as quickly as possible in order to minimise rent loss resulting from abandoned properties. The Co-operative recognises the need to have a clear and effective Abandonment Policy and procedures to achieve this. Within this Policy the Co-operative 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 rights of members when repossessing a property

2.0 Objectives

The approval of this Policy supports the following objectives contained in the Co-operative's **Business Plan**

1h) To ensure sustainability in provision, management and maintenance of housing stock

1i) To provide and maintain properties to meet identified need

3.0 Abandoned Property Issues

3.1. Identification of abandoned properties

As a general rule, all staff of the Co-operative 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 person to do this on their behalf.

3.2 Legislation

Section 17 of the Housing (Scotland) Act 2001 allows a landlord to recover possession of a house that they believe has been abandoned by the tenant. 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.

3.3 Taking possession of a property

Before taking repossession of an abandoned property every attempt will be made by the Co-operative to satisfy itself that the house is unoccupied and that the member has no intentions of re-occupying it.

If staff have reasonable grounds for believing that a property has been abandoned they can forcibly enter the house to make it secure. Staff will give the member two-days written notice stating they believe their home to be abandoned. If the member does not respond within this period staff will serve an official twenty-eight day notice. If there is still no contact from the member at the end of this period the Co-operative has a legal right to end the tenancy immediately after this notice expires.

Once the Co-operative is in legal possession of the property the locks will be changed; an inventory taken of any personal belongings left, including photographs of any significant damage to the property and outbuildings such as a garage or garden shed.

The former-member 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.

All personal belongings remaining in the property will be retained for a minimum period of fourteen days to allow the former member the opportunity to claim them. Any personal belongings estimated to have a value sufficient to cover the cost of handling, transportation and storage, plus any rent or other charges that the former member owes will be kept in safe custody for a period of six months. In either situation described if the personal belongings are not claimed they will be disposed of.

Disposal of property may include passing it to a refuse/recycling facility, donation to a charitable organisation and selling it to a third party. If personal belongings are considered good quality but small in number (e.g. pots and pans) they will be kept until there is sufficient quantity of items to sell.

Any money made as a result of the sale of items will be respectively credited to each former member's account.

Charges billed to the former member will be based on the following:

- storage calculated on the number of days personal belongings are stored, multiplied by the daily rent of the property
- the cost of handling, uplifting and transporting the belongings from the abandoned property
- the cost for disposing of any personal belongings
- re-chargeable repairs arising from the abandoned property
- rent arrears accrued at the abandoned property
- legal or other costs accrued at the abandoned property(e.g. bank charges)

Charges will start from the first day following the last day of the 28-day notice period, for example, if the termination notice ends on 31 January, charges will start from 1 February.

A written appeal from a former member requesting they do not pay the charges incurred will be given full consideration and each case assessed on its individual merits.

If a former member challenges the action taken by the Co-operative in situations where they have repossessed an abandoned property within the terms of the Abandonment Policy and associated Procedures, the Co-operative refer to the guidelines within the Housing (Scotland) Act 2001, taking the appropriate action and, if necessary, seek further guidance from the Co-operative's lawyers 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 Co-operative has reasonable grounds to believe that a joint member has abandoned their tenancy, that member will be given notification in writing that their interest in the property will be terminated within twenty-eight days. If there is no response from the member at the end of this 28-day notice, and the Co-operative has reasonable grounds for believing that the member has abandoned the property, a second notice will be served which will terminate that joint member's *interest* in the tenancy after a further twenty-eight days. Therefore 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 member's name.

A member who has abandoned their interest in the property has eight weeks to appeal against this decision. If a member appeals, the case will be reviewed and all facts considered, including whether the Co-operative followed the correct procedures, before any request to re-instate the member's membership of the Co-operative is submitted for approval.

If the member who has abandoned leaves personal belongings in the property and the remaining member does not want them the Co-operative has no legal obligation to remove these belongings from the property; this responsibility will lie with the remaining member. However, discretion can be exercised and assistance provided to remove and dispose of the belongings if they are excessive or bulky and the remaining member is unable to dispose of the belongings due to, for example, financial reasons.

A joint member 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 Co-operative. This notice will not terminate the tenancy, which will continue in the remaining member's name. If the member wishes to re-instate their tenancy at a later date, this request will be considered in line with the relevant procedure.

3.5 Remaining occupant not a member

If a member abandons their property and leaves behind an occupant(s) over the age of sixteen, who is not a member, the Co-operative 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 and any legal occupancy rights
- the length of time the occupant has resided in the property being abandoned
- the size and type of property being abandoned
- membership to the Co-operative being approved

3.6 Squatters

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.

Where squatters occupy a Co-operative property found to be abandoned the Co-operative will instigate court proceedings immediately to remove the squatters from the premises and seek legal advice from its lawyers if relevant.

4.0 Training

The Co-operative, through its Business Plan, is committed to training and developing staff and Committee members to their full potential in order to deliver a high quality of service in all areas of business to members and the public.

5.0 Equal Opportunities

The Co-operative will ensure that in implementing this 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.

6.0 Monitoring & Reporting

The Housing Management Sub Committee has delegated responsibility from the Committee of Management to monitor the management of abandonments.

It will be the responsibility of the Housing Manager to provide a quarterly report to the Housing Management Sub Committee on the:-

- number of abandonments served;
- number of abandonments completed; and

an annual report on the following key information:-

- number of abandonment proceedings commenced
- number of abandonment proceedings completed
- number of abandonment proceedings cancelled
- number of proceedings ongoing
- reasons for abandonments being cancelled
- number (and reasons) for joint to single abandonment proceedings commenced/completed/cancelled and ongoing
- length of time member held tenancy
- age of member when abandoned property
- household composition
- abandoned property size and type
- total debt at time abandoned property repossessed
- any emerging trends in relation to abandonments
- Benchmarking against other Registered Social Landlords performance

A register will be kept recording the number of abandoned properties identified. Each property will remain on the register for five years from the date the Co-operative took possession. The register will be made available for inspection by members of the public at all reasonable times.

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. Every three months the abandonment files will be examined and any irregularities investigated.

7.0 Review

The targets for monitoring the progress of abandoned properties will be reviewed annually, taking into account any legislative or other changes and the realistic ability to reach the targets set based on the previous year's performance.

When reviewing the management of abandoned properties, the following information will be used to improve service delivery by:

- monitoring comments and complaints received from members
- the number of appeals to be re-housed by former tenant members where an abandonment has taken place
- feedback from the Committee of Management; Sub-Committees and Residents Associations in relation to abandoned properties
- analysing the performance against targets set for managing abandoned properties

Unless recommended through analysis of the abandonment process, feedback from members, a change in Scottish Housing Regulator/SFHA best practice guidance or changes in legislation, the Abandonment Policy will be reviewed every three years.

8.0 Legal Framework

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

- Housing (Scotland) Acts 2001 and 2010
- Code of Conduct for Governance and Financial Accountability (Housing (Scotland) Act 2010
- Data Protection Act 1998
- Equality Act 2010
- Human Rights Act 1998
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Scottish Secure and Short Scottish Secure Tenancy Agreement

9.0 References

- Scottish Government Performance Standards
- Housing (Scotland) Acts 2001 and 2010

10.0 Related Policies and Documents

- Void Policy and procedures
- Complaints Policy and procedures
- Estate Management Policy and procedures
- Allocation Policy and procedures
- Equality and Diversity Policy and procedures
- Business Plan