



Name of Policy	Abandonment
Responsible Officer	Senior Housing Officer
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Section	Housing Services

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1. INTRODUCTION

- 1.1 As a social landlord, we at Kingsridge Cleddans Housing Association have a responsibility to manage our stock (our houses) in an efficient manner. This means not only ensuring that rents are collected, but also that properties are maintained and that tenants use the properties for the designated purpose, i.e. as their primary residential home.
- 1.2 There exists an issue that arises when a tenant wishes to cease to reside in their property, but they fail to inform the Association in line with their tenancy agreement.
- 1.3 In such circumstances, we shall look to recover the tenancy so that it may be provided to a household with housing needs.
- 1.4 There is a high degree of risk in recovering a property in this manner, and so it is important that we follow the legislation and this policy.

2. AIMS & OBJECTIVES

- 2.1 The Housing (Scotland) Act 2001 (The Act) details the process for recovering a tenancy when a housing association reasonably believes the property has been abandoned.
- 2.2 Through following the guidance as set in the Act, the Association may force entry to a property, in doing so it may secure the property against damage and vandalism.
- 2.3 Tenancies may be held as a joint tenancy, and in some circumstances, the Act may be used to bring to an end a joint part of a tenancy. This will particularly be the case where one joint tenant has moved out, but is not responding to contacts from the Association. The process for this is detailed in section 20 of the act attached at appendix 1. It must be noted that unlike an abandonment on a sole tenancy, there is a requirement for a third notice period, as provided for in S20 (3)(b).

3. PROCESS

- 3.1 Where we believe a tenancy has been abandoned, we shall initially seek to make contact with the tenant. This will look to contact the tenant via phone, mail, and house visits. It is our preferred outcome to have contact with the tenant and develop a clear idea of their intention. The abandonment process is our final resort when they are not engaging or where we reasonably believe that they will not return to residing at the property in a reasonable time.

Where we have exhausted efforts to contact the tenant and taken reasonable steps to establish their whereabouts without success, we may serve a section 18 notice. This document will:

- State that it is our belief that the house is unoccupied, that the tenant does not intend to occupy it as their principal home
- requires the tenant to write to the Association within 4 weeks of the notice being served advising that they intend to occupy the house as their principal home – this should either be hand delivered to the Association's office or sent recorded delivery for proof of delivery/compliance
- advising the tenant that, at the end of the 4 weeks, if it appears to the Association that the tenant does not intend to occupy the house, the tenancy will be immediately terminated.

This notice should be hand delivered to the tenant at the property and also issued to the tenant at their last known address (if this is different). The notice should be served separately on each tenant and joint tenant. A copy of the proof of delivery receipt for the first notice should be retained on the tenant's file.

- 3.2 During the 4-week period following the serving of the initial notice, we will continue to seek contact with the tenant, ensuring to make contact with neighbours and emergency contacts.
If pets have been left behind at the property, advice should be sought from the SSPCA – contact details 03000 999 999.
- 3.3 As there may be valid reasons for the house being unoccupied for a period of time, the Association will endeavour to be fully satisfied that the house is unoccupied and the tenant does not intend to reoccupy it.
- 3.4 Housing staff managing the Abandonment process will notify colleagues in the Asset Team that they have served a notice providing details of the property and the expected termination date (date the 2nd Abandonment Notice is served). This will allow the management of the void process to be well-organised.
- 3.5 A full record shall be retained on the housing management system of all contact efforts and their results.
- 3.6 At the end of the 4 weeks' notice, KCHA staff will attend the property and serve the second notice. This will bring the tenancy to an immediate end. At this stage, we may secure the property.

4. STORAGE OF PROPERTY

- 4.1 Where a property has been abandoned, there may be personal possessions left within the property. The rules on managing this are detailed under the Scottish Secure Tenancies (Abandoned Property) Order 2002, as detailed in Appendix 2.
On carrying out the abandon process, we shall take the details of the property that has been left. This will normally be done through photographing any such property.
- 4.3 A reasonable assessment will be carried out with regard to this property to establish if it has any value. If the property is deemed to have adequate value to cover the cost of storage and retention, we shall arrange for the property to be stored up to a maximum of 6 months. We are not required to store property which if sold, would not cover our reasonable expenses. This can be disposed of after the initial 28-day notice period has elapsed.

- 4.4 The former tenant may collect the property, upon payment of any storage costs/outstanding debt. If the property is being stored privately, it is essential to make arrangements with the company not to hand over the belongings without KCHA's consent. The former tenant should contact the Housing Officer who will determine the payment required for transport and storage costs.

5. DISPOSAL OF PROPERTY

- 5.1 The process for disposing of properties is detailed at Appendix 2. Where the Senior Housing Officer has any concerns over the value of the property, they will discuss this with the Director.
- 5.2 Where the former tenant has debts to the Association, including for the storage costs, rent arrears, or repairs, the items may be sold and any profits paid towards these debts.

6. TENANT'S RECOURSE TO COURT

- 6.1 A former tenant whose house has been repossessed in accordance with this policy has, according to the Act, the right of appeal to the court. Any former tenant wishing to appeal should seek independent legal advice.

7. EQUALITY & DIVERSITY

- 7.1 As a service provider and employer we recognise the requirements of the Equality Act 2010, oppose any form of discrimination and will treat all customers, internal and external, with dignity and respect. We recognise diversity and will ensure that all of our actions ensure accessibility and reduce barriers to employment and the services we provide.

Appendix 1

Section 20 Abandonment by joint tenant

(1) This section applies where a landlord under a Scottish secure tenancy has reasonable grounds for believing that a joint tenant under the tenancy (the “abandoning tenant”)—

- (a) is not occupying the house, and
- (b) does not intend to occupy it as the tenant’s home.

(2) A landlord wishing to bring to an end the interest of an abandoning tenant in the tenancy must serve on the abandoning tenant a notice—

- (a) stating that the landlord has reason to believe that the abandoning tenant is not occupying the house and does not intend to occupy it as the tenant’s home,
- (b) requiring the abandoning tenant to inform the landlord in writing within 4 weeks of service of the notice if the abandoning tenant intends to occupy the house as the tenant’s home, and
- (c) informing the abandoning tenant that, if it appears to the landlord at the end of that period that the abandoning tenant does not intend so to occupy the house, the abandoning tenant’s interest in the tenancy will be brought to an end by the service of a notice under subsection (3).

(3) Where—

(a) the landlord has—

- (i) served on the abandoning tenant a notice complying with subsection (2), and
- (ii) made such inquiries as may be necessary to satisfy the landlord that the abandoning tenant is not occupying the house and does not intend to occupy it as the tenant’s home, and

(b) at the end of the period mentioned in subsection (2)(b) the landlord is so satisfied,

the landlord may serve a further notice on the abandoning tenant bringing the abandoning tenant’s interest in the tenancy to an end with effect from a date specified in the notice, being a date not earlier than 8 weeks after the date of service of the notice.

(4) A landlord serving a notice on an abandoning tenant under subsection (2) or (3) must serve a copy of the notice on each of the other joint tenants under the tenancy.

Appendix 2

The Scottish Secure Tenancies (Abandoned Property) Order 2002

Procedure by landlord

2.—(1) Where property is found in a house to which section 18(1) of the Act applies the landlord shall immediately serve a notice on the tenant that the property is available for delivery into the hands of the tenant or the tenant's agent at a place specified in the notice on payment of any sum payable in terms of article 5(1) of this Order and that if the property is not collected by the tenant from the specified place on or before the date specified in the notice (being a date not fewer than 28 days from the date of service of the notice and not earlier than the date on which the landlord repossesses the house) it may be disposed

of in accordance with this Order.

(2) The notice provided for in paragraph (1) of this article shall be served by posting it to the tenant in a recorded delivery letter addressed to the tenant at the tenant's last known address or by leaving the notice for the tenant at that address.

3.—(1) Where property in respect of which a notice under article 2 of this Order has been served on the tenant has not been collected by the date specified in the notice, the property shall, subject to paragraph (2) of this article, be stored by the landlord for a period of 6 months from the date on which the landlord took possession of the dwellinghouse and after expiry of the said period the landlord may sell any item remaining in its custody.

(2) Paragraph (1) of this article shall not apply to any property the value of which would not, in the opinion of the landlord, exceed the amount which the landlord would be entitled to deduct under article 6 of this Order from the proceeds of any sale of such item.

Disposal of property

4. Where property to which article 3(1) does not apply and in respect of which a notice under article 2 has been served on the tenant has not been collected by the date specified in the notice the landlord may sell or otherwise dispose of it.

Charges payable

5.—(1) Subject to paragraph (2) of this article, where at any time prior to the sale or disposal of property under this Order the tenant, or any other person who appears to the landlord to have a right of ownership or of possession in the property, arranges for delivery to the tenant or such other person of any item the landlord shall relinquish custody of that item upon receipt of a payment equal to the amount of any costs incurred by the landlord in complying with this Order in relation to that item or such lesser amount (including a nil amount) as the landlord may think fit.

(2) Nothing in this article shall affect the landlord's exercise of its right of hypothec.

6. Where a landlord sells property under article 3 of this Order it may deduct from the proceeds of sale the amount of any costs incurred by it in complying with this Order in relation to that property and, if there is any remainder after deduction of such amount, the amount of any arrears of rent.

Public Health and Safety

7. Nothing in articles 2 to 5 of this Order shall prevent the exercise by any person or authority of any power under any enactment relating to public health or public safety.

Register of abandoned property

8.—(1) Landlords shall maintain a register of houses in which property has been

found on the exercise of their powers under section 18 of the Act.

(2) A house shall remain on the register until after the expiry of a period of 5 years from the date on which the landlord took possession of the house.

(3) The landlord shall make the register available for inspection by members of the public at all reasonable times.