



HOUSING MANAGEMENT
ABANDONMENT POLICY
March 2021
March 2026

Policy on :	Abandonment Policy
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Compliant with the Scottish Social Housing Charter :	<p>Charter Ref no 1: Equalities Social Landlords perform all aspects of their housing service so that: “every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services”.</p> <p>Outcome Ref no 2 – Communication Social landlords manage their businesses so that: “tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides.”</p> <p>Outcome Ref no 6 - Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that: “tenants and other customers live in well-maintained neighbourhoods where they feel safe.”</p> <p>Charter Ref no 11: Social Landlords make sure that: “Tenants get the information they need on how to obtain support to remain in their home and ensure suitable support is available, including services provided directly by the landlord and by other organisations”</p>
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Compliant with Equal Opportunities:	Yes
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Compliant with Business Plan:	<p>Business Objectives</p> <ul style="list-style-type: none"> • 1. Customer Service • 5. Viability
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Date Approved:	29th March 2021
Date for Review :	March 2026

Responsible Officer:	Head of Housing
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1. **Introduction**

This policy describes the Association's approach to dealing with situations where we have good reason to believe that one of our properties has been abandoned by our tenant(s).

The Housing (Scotland) Act 2001, Part 2, Chapter 1, section 17 advises that "Abandoned tenancies applies where a landlord under a Scottish secure tenancy has reasonable grounds for believing that –

- (a) The house is unoccupied and
- (b) The tenant does not intend to occupy it as his/her principle home'.

2. **Aims and Objectives**

The Association is committed to managing its housing stock effectively and efficiently.

Our aim is to identify abandoned properties quickly so we can minimise the risk of a property being vandalised and take the appropriate steps to have it re-let.

3. **Compliance with legislation**

3.1 This Policy has taken account of the following:

- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2014
- Scottish Secure Tenancies (Abandoned Property) Order 2002
- Data Protection Act 1998
- Equalities and Diversity Act 2010
- Matrimonial homes(Family Protection) (Scotland) Act 1981

Our tenancy agreement also confirms the contractual responsibilities and rights in the case of an abandoned property by our tenant. The relevant sections are:

- Section 2: Use of the property and the common parts
- Section 6: Ending the tenancy

3.2 The Housing (Scotland) Act 2001 is the main Act that sets out the main requirements of our policy. The provisions within the Act apply to both single and joint tenancies as follows:

3.2.1 **Single Tenancy**

Where the Association has reasonable grounds for believing that a tenant is not occupying the house and does not intend to occupy it as his/her only or principle home. This is defined in chapter 1, sections 17-19, Housing (Scotland) Act 2001.

3.2.2 **Joint Tenancy**

Where the Association has reasonable grounds for believing that a joint tenant is not occupying the house and does not intend to occupy it as his/her only or principle home. This is defined in chapter 1, sections 20-21, Housing (Scotland) Act 2001.

4. Investigation

Where it is suspected that one of our tenants has abandoned one of our properties, we will make reasonable enquiries on the whereabouts of our tenant. These checks will include letters, visits, checks with other agencies and neighbours as appropriate. After carrying out the appropriate checks and we believe that the property has been abandoned by our tenant we will implement the procedure for repossession. During this period we will continue to try and make contact with our tenants to find out what their intentions are in relation to our property. A record will be kept of all checks and contacts carried out in the property file.

5. Abandonment Notices for Single Tenancy

- 5.1 Where the Association has reasonable grounds for believing that a house is unoccupied and that the tenant does not intend to occupy it as his/her principle home, we will serve an abandonment notice against the tenant.

This notice must:

- State that the Association has reason to believe that the house is unoccupied and that the tenant does not intend to occupy it as her/his principle home
- Require the tenant to inform the landlord in writing within 28 days of service of the notice if the tenant intends to occupy it as their principle home
- Inform the tenant that, if it appears to the Association at the end of the 28 days that the tenant doesn't intend to occupy the house, the tenancy will be ended with immediate effect by the service of a second notice.

The legislation does not specify what inquiries should be carried out to satisfy that there are 'reasonable grounds.' To establish reasonable grounds we will carry out appropriate checks as detailed in Section 4.

5.2 Security Measures

Where the Association finds an abandoned property insecure it will immediately secure the property and take a full inventory of any items remaining.

5.3 Contact with Tenants

The tenant may contact the Association in any manner during the period between the first and second notices to advise on their occupancy of the tenancy and we will consider all the evidence which exists before making a decision to proceed with the recovery.

Where the abandonment procedure is cancelled the Housing Officer for the property will determine whether a follow up visit is required to the tenancy.

5.4 Termination of the Tenancy

The tenancy can be ended without court action by service of a second notice, not sooner than 28 days after the first abandonment notice provided;

- A proper abandonment notice has been served
- We have made such inquiries to be satisfied that the house is unoccupied and that the tenant doesn't intend to occupy it as her/his principle home.

Enquiries will be ongoing from the service of the first notice to the second notice that terminates the Scottish Secure Tenancy. Accurate records of all inquiries must be recorded to ensure that the Association has acted reasonably and in accordance with legal provisions.

The second notice terminates the tenancy and thereafter the property will be dealt with as a void property and re-let in accordance with the Association's Allocation Policy.

5.5 Appeals by the Tenant

Any tenant aggrieved by the termination of the tenancy under the abandonment policy has the legal right to appeal to the Sheriff Court within 6 months from the date the tenancy was ended. The Court must either grant a declarator (See note 1) that the notice is of no effect (where the house has not been re-let), or direct the Association to make other suitable accommodation (See note 2) available where the house has been re-let.

The above will apply whenever the Association:

- Has not served a valid abandonment notice
- Did not have reasonable grounds for finding the house to be unoccupied/or that the tenant didn't intend to occupy it as her/his home, or
- Acted in error in finding that the tenant did not intend to occupy the house as their home and the tenant had reasonable cause for failing to notify the Association of their intention to occupy.

The Court may also make other orders where a tenant has successfully challenged an abandonment order, for example, by instructing the Association to forego rent due for the period of the apparent abandonment.

If keys for a property are returned to the Association with no termination of tenancy then the Abandonment Policy will be followed.

Notes:

1. A declarator is a declaration by the court of a person's rights
2. Suitable alternative is defined by the Housing (Scotland) Act 2001, Schedule 2, Part 2. Essentially it is accommodation that is 'like for like' with the previous accommodation.

6. Abandonment Notices for Joint Tenant's

6.1 Service of the Notice

Where the Association, under a Scottish Secure Tenancy, has reasonable grounds for believing that a joint tenant is not occupying the house and does not intend to occupy it as his/her home it can apply procedures to end the tenancy.

Where the Association wishes to end the interest of an abandoning tenant in a tenancy an abandonment notice must be served on that tenant.

In the case of joint tenants who have left the house, a separate notice should be served on both tenants.

The Notice must:

- State that the Association 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
- Require the abandoning tenant to inform to the Association in writing within 28 days of service of the notice if she/he intends to occupy the house as their home
- Inform the abandoning tenant that, if it appears to the Association at the end of the 28 day period that the tenant doesn't intend to occupy the house, the abandoning tenant's interest in the tenancy will be ended by service of an appropriate notice.

As with properties abandoned and unoccupied, the Association must carry out whatever inquiries are required to be satisfied that the abandoning tenant is not occupying the house and doesn't intend to return. Although the information provided by the other joint tenant will be relevant, such information will often not be sufficient and needs to be assessed in the light of general circumstances, for instance, the possibility of relationship breakdown.

6.2 Contact from the Tenant

The tenant may contact the Association in any manner during the period between the first and second notices to advise on their occupancy of the tenancy and we will consider all the evidence which exists before making a decision to proceed with the recovery.

Where the abandonment procedure is called the Housing Officer for the property will determine whether a follow up visit is required to the tenancy.

6.3 Terminating the Tenancy

The abandoning tenant's interest in the tenancy can be ended by the Association serving a second notice on the abandoning tenant. The date for ending the tenancy must be specified in this second notice. This date must be at least 56 days after the 28 day period required by the first notice has elapsed.

6.4 Appeals by the Abandoning Tenant

A joint tenant under a Scottish Secure Tenancy who is aggrieved by the termination of the tenancy under the abandonment procedures has the legal right to appeal to the Sheriff Court within 8 weeks from the date the tenancy was ended.

7. Property Found in Abandoned Tenancies

7.1 Property

The Scottish Secure Tenancies (Abandoned Property) Order 2002 specifies procedures to be implemented whenever property is found in abandoned tenancies.

If property is found in an unoccupied tenancy where abandonment procedures have been started, the Association will immediately serve notice on the tenant.

This notice must state that:

- The property is available for delivery to the tenant (or the tenant's agent) at a place specified in the notice after payment relating to the costs of storage is made, and
- That if the property is not collected by the tenant from the place specified on or before the date given in the notice, the landlord may dispose of the property. (See Note 1).

Notes:

1. The date specified in the notice for collection/disposal of property cannot be less than 28 days from the service of notice and not earlier than the date on which the Association repossesses the house. This means, in effect, that the notice can be served at the same time as the abandonment notice. Property found cannot be disposed of until the house has been repossessed.

7.2 Method of Service

The notice can be served in two ways:

- By recorded delivery posted to the tenant's last known address
- By leaving the notice at the tenant's address

7.3 Disposal of Property

The Association must store property for a period of 6 months from the date the house was repossessed unless, in the Association's opinion, the value of the property found is insufficient to cover the costs of storage for 6 months.

During the period where property is being stored, it will be returned if delivery is arranged by a person who appears to have ownership rights of the property, providing that payment is made equal to the costs of storage or a lesser amount at our discretion.

After the 6 months period has expired, the Association may sell the property to pay for expenses associated with storage and use any balance towards rent arrears.

For property that is not of sufficient value to store for 6 months, the Association can dispose of such furniture as it sees fit.

7.4 Register of Abandoned Property

A register will be maintained for all abandoned properties. An inventory with photographs for all properties with personal belongings left behind after the tenancy has ended will be produced and kept in the former tenant file. The register will be reviewed annually and properties will remain on the register for 5 years. The register will be available for inspection on request.

8. Squatters

The Trespass (Scotland) Act 1985 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 an Association property found to be abandoned we will get legal advice and instigate court proceedings to remove the squatters from the premises.

9. Performance Monitoring

An Annual Report to the Board in the form of the Annual Return on the Charter will provide information on the number of tenancies terminated through abandonment.

The Association will monitor the level of abandonments and identify any trends which could assist the Association towards encouraging tenancy sustainment.

10. Equality & Diversity

The Association promotes equal opportunities and will not discriminate between persons on grounds of gender or marital status, on racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions. See our Equalities and Diversity Policy.

11. Data Protection/GDPR

When implementing the policies and procedures of Paisley Housing Association all staff and Board members must adhere to and be aware of the requirements of the Data Protection Act 2018 and the General Data Protection Regulation (EU) 2016/679 ("the GDPR").

In situations where there may be any doubt about the requirements of the above, the Association may seek the views of its legal advisors.

12. Complaints

The Association aims to ensure that the service provided to tenants is of the highest quality. If this is not the case, a Complaints Policy and Procedure is in place to allow all residents or affected parties to state their grievance. The Scottish Public Services Ombudsman is the final stage of this process

13. Policy Review

The Abandonment Policy will be reviewed every 5 years or earlier if new legislation deems it necessary.