

FORTH HOUSING ASSOCIATION LIMITED

ABANDONMENT

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Estate Management Policy HM 07

Rent Arrears Policy HM 14

Housing (Scotland) Act 2001 (sections 17-21)

Scottish Secure Tenancies (Abandoned
Property) Order 2002



This document can be made available in alternative languages or formats (such as large print, audio etc). Please contact staff as required.

FORTH HOUSING ASSOCIATION LIMITED

ABANDONMENT POLICY

1.0 Introduction

- 1.1 The purpose of this policy is to provide guidance for staff members who are required to take action against tenants when it is suspected that a tenant or a joint tenant has abandoned and do not appear to wish to return to their home.

2.0 Housing (Scotland) Act 2001

- 2.1 Tenants of Forth Housing Association sign a Scottish Secure Tenancy.
- 2.2 The Association is required to comply with sections 17, 18, 19, 20 and 21 of the Housing (Scotland) Act 2001 regarding the abandonment of Scottish Secure tenancies.
- 2.3 Should the Association have reason to believe that a tenant or a joint tenant has abandoned their tenancy, the Association has a legal requirement to carry out sufficient investigations to establish if this is true.
- 2.4 The Association must make reasonable attempts to contact the tenant and maintain a record of any forms of communication used in order to make contact.

3.0 Security of Property

- 3.1 Where the Association, having made reasonable attempts to make contact with the tenant, believe that a property is unoccupied, it may enter the property in accordance with Section 17 for the purpose of securing the property; fittings, fixtures or furniture against vandalism.

4.0 Unoccupied Properties

- 4.1 The Association must make reasonable attempts to contact the tenant by means of visits leaving postcards, written communication, telephone calls etc at different times of the day in order to establish if the property is unoccupied.
- 4.2 Having made reasonable attempts to contact the tenant(s) and it is believed the property is unoccupied; the Association may serve on the tenant a notice in accordance with Section 18 of the Housing (Scotland) Act 2001 –
- (a) Stating that the Association has reason to believe that the house is unoccupied and that the tenant does not intend to occupy it as the tenant's home,
 - (b) Requiring the tenant to inform the Association in writing within 4 weeks of service of the notice if the tenant intends to occupy the house as the tenant's home, and

- (c) Informing the tenant that, if it appears to the Association at the end of that period that the tenant does not intend so to occupy the house, the tenancy will be terminated with immediate effect.

- 4.3 Where the Association has served on the tenant a notice complying with subsection 18(1) of the Housing (Scotland) Act 2001, has made sufficient inquiries to establish that the property is unoccupied and that the tenant does not intend to occupy it as the tenant's home, and the tenant has not made attempts to contact the Association within the 4 weeks notice period, the Association must then serve a further notice on the tenant bringing the tenancy to an end with immediate effect.
- 4.4 Where a tenancy has been terminated in accordance with Section 18 of the Housing (Scotland) Act 2001, the Association is entitled to take possession of the property without further proceedings.
- 4.5 Staff should refer to the Abandonment Procedure Flowchart for Unoccupied Properties for further guidance.
- 4.6 Where notices are attached and/or posted through the letterbox of the door of a suspected abandoned property and the tenant's first language is known to be non-English, the notice will be translated into the relevant language

5.0 Storage/Disposal of Tenants Goods

- 5.1 As required by the Scottish Secure Tenancies (Abandoned Property) Order 2002 we will take into our possession and safekeeping any goods found within the house and return it to the tenant on payment of any sums due to us by the tenant including the costs of storage, if the following condition is met:

- The goods must be, in the opinion of the Housing Services Officer (HSO), capable of being sold at the end of the 6 month storage period to meet the costs of storage and any rent arrears due by the tenant.

If items are stored, this must be with an approved contractor, providing secure and safe facilities with the relevant during the period of storage. Given the high cost of removal and storage coupled with the low value of items for disposal within many properties means that the storage of goods, will occur in exceptional circumstances.

Therefore, any property, the value of which would not exceed the cost of uplift and storage will be disposed of immediately. This decision may be taken by the HSO responsible for managing the tenancy.

6.0 Register of Abandoned Properties

6.1 A register is kept of all abandoned properties and details of any goods found within the property. The register is open for public inspection.

6.2 Details of abandoned properties will remain on the register for a period of 5 years.

7.0 Tenants Recourse to Court

7.1 Under Section 19 of the Housing (Scotland) Act 2001 a tenant who is aggrieved by the termination of the tenancy they may raise legal proceedings by summary application within six months after the date of the termination.

7.2 Where it appears to the Court that the Association has failed to comply with any provisions of the Housing (Scotland) Act 2001, the Association will be required to reinstate the tenant in their original property of occupancy or if the property is let to a new tenant, the Association will be required to make other suitable accommodation available to the tenant.

8.0 Abandonment by Joint Tenants

8.1 Where the Association has reasons to believe or has been advised that a joint tenant is no longer occupying the property, the Association must serve on the abandoning joint tenant a notice in accordance with Section 20 of the Housing (Scotland) Act 2001 –

- (a) Stating 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,
- (b) Requiring the abandoning tenant to inform the Association 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 Association 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 further notice.

8.2 Where the Association has served on the abandoning joint tenant a notice complying with subsection 20(2) of the Housing (Scotland) Act 2001, has made sufficient inquiries to establish that the tenant is not occupying the property and that the tenant does not intend to occupy it as the tenant's home, and the tenant has not made attempts to contact the Association within the 4 weeks notice period, the Association must then serve a further notice on the abandoning joint tenant bringing the 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 service of the second notice.

8.3 Where the Association is serving a notice on an abandoning joint tenant under section 20 of the Housing (Scotland) Act 2001, the Association must serve a copy of the notice on each of the other joint tenants under the tenancy.

8.4 Where a joint tenant's interest in the tenancy has been brought to an end in accordance with Section 20 of the Housing (Scotland) Act 2001, the remaining tenant(s) will sign a minute of variation to the Scottish Secure Tenancy.

9.0 Abandoning Joint Tenants Recourse to Court

9.1 Where the Association has served on the abandoning joint tenant a notice complying with subsection 20(2) of the Housing (Scotland) Act 2001, and the tenant is aggrieved by the bringing to an end of the tenant's interest in the tenancy, the tenant may raise proceedings by summary application within 8 weeks after the date of service of the notice in accordance with Section 21 of the Housing (Scotland) Act 2001.

9.2 Where it appears to the Court that the Association has failed to comply with any provisions of section 20 of the Housing (Scotland) Act 2001, the Court may grant a declarator and make such further order in relation to the tenant's interest in the tenancy as it thinks fit or if it would be unreasonable to grant such a declarator, the Association will be required to make other suitable accommodation available to the tenant.

10.0 Policy Review and Period

10.1 Management Committee will review this policy at least every 3 years, and staff are responsible for ensuring that they meet legal and good practice requirements.

11.0 General Data Protection Regulations

11.1 Where there is a need to share tenant's data (including the sensitive or special category data) with external organisations we will do so in accordance with our Data Protection Policies.