

# ***FORTH HOUSING ASSOCIATION LIMITED***

## ***ABANDONMENT***

Governance: Housing Management

Code: HM 02

Approval: August 2024

Review Date: August 2027

Cross Reference: Voids Policy HM26

Estate Management Policy HM07

Rent Arrears Policy HM14

Rechargeable Repairs Policy M11

This document can be made available in various formats such as in larger print, audio-format and Braille. It can also be made available in other languages, as appropriate.

## Policy Summary

This policy has been developed to show how Forth Housing Association deal with abandoned or suspected abandoned properties to make sure that we make the most of our properties to meet housing need in our communities.

## Equalities

No equalities issues have been identified in the Equalities Impact Assessment Screening Questions therefore there is no requirement to do a full Equality Impact Assessment.

## Privacy

There is no requirement to do a full Privacy Impact Assessment as there is no change to any data collected associate with the implementation of this policy.

## Policy Owner

Name: Head of Tenant Services

Date of Next Review: August 2027

# **FORTH HOUSING ASSOCIATION LIMITED**

## **ABANDONMENT POLICY**

### **1.0 Introduction**

- 1.1 The purpose of this policy is to explain how Forth Housing Association will deal with abandoned and suspected abandoned properties to make sure that we make the most of our properties to meet housing need in our communities.
- 1.2 The policy covers the legal steps which must be followed in such cases and what rights tenants have in this situation.

### **2.0 Principles**

- 2.1 Tenants of Forth Housing Association sign a Scottish Secure Tenancy Agreement.
- 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 Aims and Objectives**

- 3.1 It is the aim of Forth to:
  - Manage our properties to ensure that the association's assets are well managed and maintained
  - Inform tenants, from the outset, on the ways in which they can end their tenancy in the proper manner i.e. by providing the appropriate notice of their intention to end the tenancy
  - Ensure our properties are tenanted by legitimate tenants and assist us meeting housing need in our communities
  - Take the necessary action as stated within the Housing (Scotland) Act 2001 when we believe a property has been abandoned, which includes possession of a property
  - Avoid abandoned properties and support tenants to remain in their tenancy where possible

- Protect tenants' rights by ensuring that thorough investigations take place regarding occupancy before any action is taken to recover a property through the abandonment process.

## 4.0 Policy Framework

### Tenancy Sustainment

- 4.1 It is important that tenants are given as much advice and support as possible to maintain their tenancy.
- 4.2 FHA recognise that tenants require different levels of support and advice. Some of the ways we will support our customers include:
- Assisting applicants with their desired area choice where possible and ensuring they are only considered for the areas in which they want to live. Re-letting our properties as soon as is reasonably possible
  - Supporting mutual exchanges where possible to assist tenancy sustainment
  - Liaising and working with Stirling Council in respect of all nominations and Section 5 homelessness referrals particularly Housing First clients who require additional support
  - Providing a new tenant pack when a new tenant signs up which includes some household basics
  - Providing welfare benefit advice and assistance via our Income Maximisation Officer
  - Providing general tenancy support via our Assistant Tenancy Sustainment Officer which can include signposting, funding applications, information and advice
  - Undertaking a new tenant visit within 6 weeks of the tenancy commencing
  - Identifying as soon as possible adaptations which may be required to a property to allow a tenant to continuing living in a property independently
  - Ensuring that consistent communication is maintained with tenants who require further tenancy support assistance until the tenant is satisfied that their queries have been addressed to a conclusion

### Investigation

- 4.3 Where FHA believe that a tenancy has been abandoned or a joint tenant has abandoned the property, staff will carry out a thorough investigation to establish if this is the case.
- 4.4 The investigations are detailed in an abandonment checklist completed by the relevant member of the Tenant Services team.
- 4.5 When the checklist is completed and the tenants whereabouts remains unknown or staff establish that the property is not the tenant's principal home, a first

abandonment notice will be served on the property. This is further outlined at 4.8 below.

- 4.6 When the first abandonment notice expires and if the Association has not received proper notice from the tenant, in writing, that they wish to remain in the property and occupy it as their principal home, then a second abandonment notice will be served and the Association will take possession of this property. This is further outlined at section 4.11 below.

#### Unoccupied Properties

- 4.7 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.
- 4.8 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.

This is known as a First Abandonment Notice.

- 4.9 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 not to be English, the notice will be translated into the relevant language.
- 4.10 Whilst the First Abandonment Notice is live, staff will continue to explore the tenant's whereabouts to ensure all attempts to contact the tenant have been exhausted. This will continue for the 28 days that the notice is live.
- 4.11 Where the Association has served on the tenant a first notice complying with subsection 18(1) of the Housing (Scotland) Act 2001, has made ongoing sufficient inquiries to establish that the property is unoccupied, that the tenant does not intend to occupy the property as their principal home, and the tenant has not made attempts to contact the Association within the 4 week notice period, the Association must then

serve a further notice on the tenant bringing the tenancy to an end with immediate effect.

This is known as a Second Abandonment Notice.

- 4.12 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.
- 4.13 Staff will then enter the property and take an inventory of goods and property to form a recommendation regarding storage or disposal of items found within the property.

#### Security of Property

- 4.14 As outlined above, 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 of the Housing (Scotland) Act 2001, for the purpose of securing the property; fittings, fixtures or furniture against vandalism. This can include by force if necessary.

#### Storage/Disposal of Tenants Goods

- 4.15 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.
- 4.16 If items are stored, this must be with an approved contractor, providing secure and safe facilities with the relevant insurance 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 only in exceptional circumstances.
- 4.17 Therefore, any goods/property, where the value would not exceed the cost of uplift and storage will be disposed of immediately. This decision will be taken by the Housing Officer responsible for managing the tenancy.

#### Tenants Recourse to Court

- 4.18 Under Section 19 of the Housing (Scotland) Act 2001 a tenant who is aggrieved by the termination of the tenancy may raise legal proceedings by summary application within six months after the date of the termination.
- 4.19 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.

#### Abandonment by Joint Tenants

- 4.20 Where the Association has reasons to believe or has been advised that a joint tenant is no longer occupying a 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.
- 4.21 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, 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 week 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. This is a date not earlier than 8 weeks after the service of the second notice.
- 4.22 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 the other joint tenant who is responsible for the tenancy.

- 4.23 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 will sign a minute of variation to the Scottish Secure Tenancy.

#### Abandoning Joint Tenants Recourse to Court

- 4.24 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 that their interest in the tenancy has been brought to an end, 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.
- 4.25 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/action to state that the abandonment notice is of no effect or if it would be unreasonable to grant such a declarator/action, the Association will be required to make other suitable accommodation available to the tenant.

#### Charges

- 4.26 Charges will apply to the tenant for unpaid rent, storage of items where applicable and rechargeable repairs in line with the Rents Arrears Policy (HM14), Void Policy (HM26) and Rechargeable Repairs Policy (M11).

#### Register of Abandoned Properties

- 4.27 A register is kept of all abandoned properties and details of any goods found within the property. The register is open for public inspection.
- 4.28 Details of abandoned properties will remain on the register for a period of 5 years.

## **5 Monitoring of the Policy**

- 5.1 The Management Committee will review this policy at least every 3 years and staff are responsible for ensuring that it meets legal and good practice requirements.
- 5.2 The Head of Tenant Services will monitor and report the application of this policy through our quarterly performance reports.

## **6.0 Complaints and Appeals**

- 6.1 Forth Housing Association welcomes complaints and positive feedback, both of which provide information which helps us to improve our services. We use a complaints procedure developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.



The complaints procedure allows for most complaints to be resolved by front line staff within a five day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20 day limit (second stage). At the end of the second stage our response will be made by a director. If the customer remains dissatisfied, he/ she may then refer the matter to the SPSO.

At each stage we will advise the customer how the complaint should be taken forward and advise which agency would be most appropriate to consider the case.

## **7.0 Equalities**

7.1 Equality and diversity underpin all our activities and services. When delivering our services, we never discriminate on the basis of sex or marital status, race, disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions. Full details of our Equalities Policy can be found on our website [www.forthha.org.uk](http://www.forthha.org.uk) or can be obtained from our office.

## **8.0 Data Protection - Privacy**

8.1 We recognise the importance of data protection legislation, including the General Data Protection Regulation, in protecting the rights of individuals in relation to personal information that we may handle, use and disclose about them, whether on computer or in paper format. We will ensure that our practices in the handling, use and disclosure of personal information as part of the processes and procedures outlined in this policy comply fully with data protection legislation. More information is available from our Data Protection Officer.

## **9.0 Availability**

9.1 This policy is available on our website and can be made available in a number of other languages and other formats on request.

## **10.0 Review**

10.1 This policy will be reviewed at least every 3 years by the Management Committee and staff are responsible for ensuring that it meets legal and good practice requirements.

## Appendix 1 Equality Impact Assessment Screening Questions

### Forth Housing Association Ltd Equality Impact Assessment Screening Questions

#### **Abandonment**

Will the implementation of this policy have an impact on any of the following protected characteristics?

- |                                   |                              |  |
|-----------------------------------|------------------------------|--|
| 1. Age                            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Disability                     | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Gender reassignment            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Marriage and Civil Partnership | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 5. Pregnancy and Maternity        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 6. Race                           | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 7. Religion or belief             | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 8. Sex                            | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 9. Sexual orientation             | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

*If you have answered 'Yes' to any of these points, please complete a full Equality Impact Assessment. If you have answered 'No', you need take no further action in completing an Equality Impact Assessment*

## Appendix 2 Equality Impact Assessment Screening Questions

### Forth Housing Association - Privacy Impact Assessment

1. A substantial change to an existing policy, process or system that involves personal information  
Yes  No
2. A new collection of personal information  
Yes  No
- 3.. A new way of collecting personal information (for example collecting it online)  
Yes  No
4. A change in the way personal information is stored or secured  
Yes  No
5. A change to how sensitive information is managed  
Yes  No
6. Transferring personal information outside the EEA or using a third-party contractor  
Yes  No
7. A decision to keep personal information for longer than you have previously  
Yes  No
8. A new use or disclosure of personal information you already hold  
Yes  No
9. A change of policy that results in people having less access to information you hold about them  
Yes  No
10. Surveillance, tracking or monitoring of movements, behaviour or communications  
Yes  No
11. Changes to your premises involving private spaces where clients or customers may disclose their personal information (reception areas, for example)  
Yes  No

*If you have answered 'Yes' to any of these points, please complete a full Privacy Impact Assessment. If you have answered 'No', you need take no further action in completing a Privacy Impact Assessment.*