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| Title | Abandonment Policy |
| Purpose | <p>This Policy outlines Maryhill Housing Association’s approach to dealing with situations where we have good reason to believe that one of our properties have been abandoned by the tenant.</p> <p>The Association will provide staff with clear operational procedure and guidelines setting out how the Association will progress any notifications or concerns that a property has been abandoned. This will also set out the tenant’s responsibilities and how the Association will manage complaints received about any action taken as part of this policy.</p> <p>The Policy provides a framework for tenants who abandon their home.</p> |
| Scope | <p>The Board has responsibility for approving this, Policy.</p> <p>The Senior Management Team has responsibility for reviewing and monitoring the outcomes of this policy.</p> <p>The Director of Operations holds the lead responsibility for this policy with responsibility for the implementation delegated to the Head of Neighbourhoods & Communities.</p> <p>This policy applies to all Board and Committee members, members of staff whether employees of MHA, freelance, casual, or temporary agency staff irrespective of grade, position or length of service responsible for the management of properties within the Association.</p> |
| Definitions | <p>For the purpose of this Policy unless otherwise stated, the following definitions shall apply: The Abandonment Policy sets out the approach taken by Maryhill Housing Association to manage any suspicions of an Abandoned property.</p> <p>Abandonment is when a tenant fails to occupy the house as their own/principle home or when the tenant ceases to occupy the property without giving notice to terminate as specified in the tenancy agreement. This situation is referred to as abandonment of the property.</p> <p>The Policy applies to the management of the property owned by the Association and subject to a Scottish Secure Tenancy (SST) or a Short Scottish Secure Tenancy (SSST) or a Private Residential Tenancy.</p> |

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| | <p>This Policy also applies to the management of Mid Market Rent Properties managed by the Association on behalf of Maryhill Living and subject to the Private Residential Tenancy Agreement. Maryhill Living Limited oversees the management and governance of all Mid Market Rent Properties.</p> |
| <p>Policy Statement</p> | <p>The Association aims to identify abandoned properties as early as possible. A property will not be treated as abandoned until the Association is satisfied that all appropriate checks have been carried out.</p> <p>At all times the Association will comply with legislation and best practice.</p> <p>The Association is committed to providing fairness, transparency and equal opportunities in order to prevent discrimination. The abandonment policy will try to ensure that no person is discriminated on the grounds outlined in the Equalities Act 2010. This includes protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.</p> <p>The police and procedure will be flexible where possible and consider the individual needs of our tenants and their households.</p> <p>Abandonment Policy Aims:</p> <p>The policy will be implemented when we have justifiable reason to believe that the property has been abandoned by the tenant. The aim of the policy is to:</p> <ul style="list-style-type: none"> • Identify properties which are unoccupied or where the tenant does not intent to occupy the property as their only/ principal home. • Manage properties to ensure that the Association’s assets are managed and maintained. • determine where there is a potential abandonment as early as possible • minimise the time a property is un-occupied. • ensure that belongings left in a property which has been abandoned are managed in line with legislation and good practice. • To minimise the cost of repairs and reduce the risk of vandalism • protect the rights of tenant(s) by ensuring that thorough investigations are made regarding the occupancy before recovering a property through the abandonment process. • Comply with legislation in relation to abandonment of tenancy in particular Housing (Scotland) Act 2001 |

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| | <p>Dealing with Tenants who do not occupy property as their only or principle home</p> <p>The Association may find that a tenant is not occupying a property as their only or principal home, however they may be unwilling to end the tenancy in the usual manner but wish to remain an interest in the property.</p> <p>In such situations, where the Association is unable to identify acceptable reason for the tenant not occupying the property as their only/ principal home or the tenant fails to provide an acceptable date for return to occupy the property, legal action will commence to recover the property.</p> <p>Legal and Good Practice Requirements</p> <p>Our approach to managing the abandonment of one of our properties by our tenant is determined by our statutory and contractual obligations.</p> <ul style="list-style-type: none"> • Housing (Scotland) Act 2001 & 2010 • Housing (Scotland) Act 2014 • Homeless etc. (Scotland) Act 2003 • Scottish Social Housing Charter (Outcome 1, 2 6 & 11) • Disability Discrimination Act 2005 • Equalities Act 2010 • The Private Housing (Tenancies) (Scotland) Act 2016 • The Letting Agents Code of Practice (Scotland) Regulations 2016 • Data Protection Act 2018 • Human Rights Act 1999 • The First-tier Tribunal for Scotland (Housing and Property Chamber) (Formerly the Private Rented Housing Panel • Chartered Institute of Housing <p>Appendix A to the policy details how the principles set out above will be applied.</p> |
| Approval | Board – January 2024 |
| Policy Owner | Head of Neighbourhoods & Communities Responsible Director – Director of Operations |
| Review | August 2026 The policy may also be reviewed in light of legislation, good practice, or internal structural and process change. |

Appendix A

Abandonment Procedure

Abandonment Summary

The provisions relating to abandoned tenancies are set out in Sections 17-21 of the Housing (Scotland) Act 2001.

Abandoned tenancies will normally be identified by officers in the field or via reports by neighbours or other agencies. It is important to follow procedures exactly to ensure that the Association has acted legally and reasonably.

Note: There have been occasions where a tenant has died and there has been no formal notification to the local Housing Officer. On these rare occasions, inquiries should be made to Police, Registrar or Social Work who may be able to assist.

Where there are reasonable grounds to believe that the house is unoccupied and the tenant does not intend to occupy it as his/her home, officers of the Association may enter the house to secure it and any furniture against vandalism (by force, if necessary) and may take possession of the house in accordance with the procedures set out in Section 18 of the 2001 Act.

It is imperative that the undernoted statutory procedures are followed for a Scottish Secure Tenancy (SST) and for that of a Short Scottish Secure Tenancy (SSST)

Two notices are required to be served at different stages before a property can be repossessed as abandoned. Enquiries must be carried out before each notice is served.

In addition to our statutory requirements in relation to Abandoned Properties, it is good practice to use the Pre-Abandonment letter [\[Pre Aban\]](#) which should be used in cases where we have been unable to access the property, for example new tenant visits, Bi-annual visits or rent appointments, and we suspect that the property may be abandoned, or that the tenant has never taken up occupation.

Identifying an Abandoned Property

When a property is suspected of being abandoned the Housing Officer should carry out a initial investigation prior to serving the First Abandonment Notice ensuring the Abandoned House Report is completed. The report and checklist should be signed off by the Housing Manager or the Head of Neighbourhood & Communities in the absence of the Housing Manager which demonstrates that the Association has taken all reasonable steps to assess the circumstances of a case and protect the association from any legal challenge from the tenant.

Some examples of enquiries the housing officer could make when conducting investigations are:

- Check rent account for payments are there any arrears?
- Is mail accumulating, being collected or redirected?
- Check with neighbours of when tenant was last seen
- Is the tenant claiming housing benefit or DWP benefits?
- Is the tenant still registered for council tax?
- Have any other agencies had contact with tenant (ie social work, education departments)
- Have tenant's children changed schools?
- Has the tenant made a homeless application?
- Is the tenant in hospital or Prison
- Is the tenant still registered on the electoral register?
- Has controlled entry activity been checked?
- Check if Notice to termination has been received or keys expected
- Does the tenant have an application for rehousing, has this been checked?

Tracking Actions

The Housing Officer must keep a detailed record of all enquiries and of any actions taken after completing the investigation, for example a log of house visits, phone calls and letters etc. The Housing Officer must be able to demonstrate that enquiries were sufficient and reasonable in the circumstances by completing the Abandoned House Report and Checklist.

All information should also be recorded on SDM.

Death of a Tenant

In the event that attempts to contact the tenant reveal that the tenant has passed away, the Housing Officer should refer to the Succession of Tenancy Procedure if applicable or the End of Tenancy Void and Lettings procedure which will provide guidance to the Housing Officer on how to progress the end of tenancy when a tenant has passed away.

Serving the Abandonment Notice

If the Housing Officer is satisfied following investigations that the house is indeed unoccupied, and the sole/joint/several tenant(s) do not intend to occupy it as their home the **First Notice Abandonment Notice Aban 1** should be served to all tenants and all contact addresses. A Certificate of Service signed and dated by the 2 delivering officers must be completed. The notice must provide, 28 Calendar Days' notice from the date of service must be provided.

It is good practice to allow a full 30 days to ensure the full 28-day statutory period has elapsed therefore the Aban1 notice becomes valid on the day after it has been served.

Serving the Abandonment notice can be done in one or more of the following ways by

- Delivering it to the tenant
- If you have information about where the tenant may be living, a copy should also be sent to that address

The notice should be served by two members of staff who will both sign date and witness the serving of this notice. A copy the certificate of service should be retained with the notice and uploaded in to the SDM diary.

Any contact from the tenant within the 28-day period stating that they intend to occupy the property should be confirmed in writing by the tenant and attached to Abandoned House report. No further action should be taken in respect of Notice at that time. However, arrangements must be made to inspect the house immediately following receipt of the letter, to confirm that the tenant is indeed occupying the property. All contact should be updated on SDM Diary. All investigation notes should also be updated on to SDM Diary.

Should the Housing Officer not be satisfied that the tenant is occupying the property as his/her only or principal home, further enquiries will need to be made and the case should be discussed with the Housing Manager for further appropriate action. (This may involve serving a new Notice following further investigations.) Breach of tenancy action may also be appropriate if the tenant has responded but the Housing Officer is not convinced that the house is being occupied as only or principle home. Housing Officer should refer to Breach of Tenancy Procedures at this point for guidance.

In the event the Housing Officer is satisfied that the tenant is resident, the Abandoned House Report should be passed back to the Housing Manager for sign-off of 'cancellation' of Notice. The cancellation must be recorded on SDM.

The situation will be monitored by the Housing Officer for 2 months to ensure that the tenant has resumed occupancy and unannounced fortnightly visits should be made to confirm this.

The outcome of the enquiry should be noted in the Abandoned House Report and on SDM.

The Abandoned House Report should be uploaded onto SDM for future reference.

If pets have been left behind at the property advice should be sought from the SSPCA – contact details 03000 999 999.

If there is no contact made by the tenant during the 28-day period, further investigations/enquiries should be made and updated on SDM to establish that the tenant has indeed abandoned the tenancy. If this is the case, then the Second Abandonment Notice **Aban 2** should be served.

Details of the type and extent of the enquiries carried out at this stage should be noted on SDM and the Abandoned House Report. The Abandoned House Report should be sent to the Housing Manager for approval. Once this has been approved by the

Housing Manager the Second Abandonment Notice should be signed by the Housing Officer, and delivered to the property, and a Certificate of Service completed.

The notice should be served by two members of staff who will both sign date and witness the serving of this notice. A copy the certificate of service should be retained with the notice and uploaded in to the SDM diary.

Upon serving the second abandonment notice the tenancy has now ended and the Association can take possession of the house without any further proceedings, by changing the locks. If the tenant is at the property when the second abandonment notice is being served, an immediate inspection of the property should be undertaken whilst the officer is on site.

In the event the Officer is satisfied that the property has not been abandoned, the Notice should not be served at that time.

The matter must then be referred to the Housing Manager and the- 2nd Abandoned Notice Not Served. The section of abandoned House Report and SDM should be completed by the Housing Manager giving reason(s) for not proceeding with the Abandonment process.

In the event the Officer is not satisfied that the tenant is occupying the house as their only or principal home, the Notice should be served **HOWEVER** the case should be referred to the Housing Manager or Head of Neighbourhoods & Communities for discussion and decision immediately before locks are changed.

Should the tenant return after the second abandonment notice is served and the tenancy terminated then the Head of Neighbourhood & Communities must decide:

- Whether the tenant has sufficient/reasonable grounds to challenge it. This should only happen in extremely rare occasions. If there are reasonable grounds the Head of Neighbourhoods & Communities can offer the property (if it is still un-let) or an alternative property to the tenant. In such cases a new tenancy must be created as the original tenancy has been terminated.
- If the Head of Neighbourhood and Communities decides that the abandonment was served correctly and in fact the tenant had abandoned the property, then you should advise the tenant to reapply on the waiting list. It should be noted that the application for rehousing will be suspended, and they should be advised to present as homeless to the homeless case work team.
- If the tenant comes into the office to hand in keys the housing officer should ensure a Notice of Termination is completed and signed. If the tenant refuses to complete the notice of termination, then they should be advised that the rent charge will continue to be levied on them while the

abandonment procedure runs, and they will be held liable for outstanding sums.

Security of Property

Once it has been established that the property has been abandoned, the Housing Officer will decide if the property or surrounding properties are at risk, for example from vandalism, weather, or frost damage, and if so, an emergency forced entry should be progressed by the Housing Officer. A lock change will be required the Housing Officer will liaise with the Customer Contact Team to arrange a lock change. The Housing Officer should provide details of where the tenant can obtain the new keys will be attached to the front door of the property. Details will also be provided of our out of hours team in the event that the tenant makes contact out with office hours. If the property is not considered to be at risk, no forced entry should be made until the 2nd Abandonment Notice has been served.

Inventory

An inventory of any items left by the tenant should be recorded on the Abandoned House Report and recorded on SDM. Photographs should also be taken of any items left for audit purposes or in the event of a tenant making a claim.

Disposal of any items should be discussed and approved by the Head of Neighbourhood & Communities.

A Report of all stored goods should be monitored and reviewed on a monthly basis by the Housing Managers to ensure that items are being disposed of within timeframe to reduce costs to the Association.

Abandonment Register

Under the Scottish Secure Tenancies (Abandoned Property) Order 2002, any property left must be kept for **at least 28 Calendar Days**. Only after the 28 Calendar Days should a decision then be made whether to store the items for a further 6 months or not (depending on their value). The collection of property notice must also be served **Aban5**, either at the tenant's new / contact address or at their last known address (i.e. the tenancy address).

It is a statutory requirement that Landlords maintain a register of houses in which property has been found on their exercise of their powers under Section 18 of the 2001 Act. Service Delivery Managers within each Area Office will be responsible for this register and must confirm before signing the Notice that the register has been updated accordingly.

Upon completion of the repossession following Abandonment the Housing Officer is required to update the Abandonment Register.

A house shall remain on the register until after the expiry period of 5 years from the date that the Landlord took possession of the house.

The register has to be available for inspection by members of the public at all reasonable times.

Storage of Goods

Upon repossession of a property via the Abandonment procedure an Inventory of all items left in the property should be taken and the Housing Officer should evaluate the condition of the items that have been left. This should indicate if the items are fit for storage i.e., cooker, microwave, fridge freezer or washing machine – are these clean and fit to be stored. If the cooker is dirty or washing machine is full of clothes with water or the fridge freezer is full of rotten food, then these items are not fit for storage as it can attract mice/rats. Pictures should be taken, and this would be listed as the justifiable reason for disposing of the items at void.

If there is evidence of drug use in the property, and it is not safe to remove the items, this should be documented, pictures taken, and this used as the reason for justification in disposal of the items at void stage. This has to be approved by the Head of Neighbourhood & Communities before instruction is given to the void team.

If items are deemed to be in good condition and the value of the items are more than storage costs, then by law we must store these items.

Items should remain in storage for 6 months as the tenant has the right to collect any stored belongings within the six-month period.

If the tenant makes contact after the repossession has taken place but the items have not been stored or disposed of then they should be offered the opportunity to collect the items from the property within a reasonable timeframe. Reasonable timeframe should be within 5 working days. Any extension to this timeframe should be discussed and approved by the Head of Neighbourhood & Communities as this will impact void rent loss figures for the Association.

If the tenant is unable to comply to collect the items within 5 working days and the Head of Neighbourhood & Communities does not approve extension to this time frame the Housing Officer will immediately arrange for storage of these items

At the end of the six months the Association can make the decision to either dispose of the items or sell them. This should be agreed by the Housing Manager.

How to Arrange Storage

A date for removal should be agreed and a removal company booked. The Association currently use Healey's Removals, 1 Willowyard Road, KA15 1JG, tel 01505 502 220. The email should contain the house size, specific items that must be stored as per the inventory and if packing and boxing is required.

Healey's should come back with a timescale for removal

If Healey's are not available to carry out the removal within the timescale required a search can be conducted on www.getamover.co.uk to find an alternative

Abandonment by Joint Tenant

It is not uncommon for a relationship to break down and one partner who holds a joint tenancy to leave without keeping contact with the remaining joint tenant. In this event it is not possible to simply terminate the joint tenant's interest on the request of the remaining tenant.

Section 20 of the Housing (Scotland) Act 2001 gives a provision for service of an abandonment notice on the unoccupied half of the tenancy. This operates similarly to the Section 18 Abandonment Notices (First Abandonment Notice) used more commonly in the event all tenants are abandoning the property.

Housing Officers need to exercise caution however because this is not the same procedure.

Like the Section 18 Notice (First Abandonment Notice) a second notice follows the first after 28 days. There is also an obligation to carry out checks to ensure that the Association has:

- **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.**

These should be as extensive as practical given the information held about the tenant but should not entirely rely on information provided by the remaining tenant. Officers must bear in mind their potential conflict of interests.

It is suggested that contact is made with police, prisons, social work and local hospitals as well as family

The important difference to a normal abandonment procedure is that the second notice gives notice that the tenancy will end on a date no earlier than eight weeks after service of that (second) notice.

Joint Tenant – Abandonment – First Notice

Where the Association has reasonable grounds for believing that one of the joint tenants is not occupying the house and does not intend to occupy it as his/her home, the Association may serve a notice **Aban 3** on that tenant and a copy on the other joint tenant(s) stating that the Association has reason to believe that the joint tenant is not occupying the house and does not intend occupying the house as his/her home

The joint tenant must inform the Association in writing within 4 weeks of the notice if she/he intends to occupy the house as his or her home

Joint Tenant – Abandonment – Final Notice

If it appears to the association at the end of the 4 weeks, the joint tenant does not intend to occupy the house as his or her home the joint tenant's interest in the house will be brought to an end by means of a further notice **Aban 4**.

The Association should calculate 4 weeks and one day from the date of the original notice to all the full period to elapse.

At the end of the notice period for the **Aban 3** (4 weeks and a day) and the Association has satisfied itself that all the necessary enquiries have been made and that the joint tenant is not occupying the house and does not intend to occupy it as his or her home, the Association can serve a further notice **Aban 4** on the joint tenant with a copy to the other joint tenant terminating the that joint tenant's interest in the tenancy giving not less than 8 weeks and one days' notice. At the end of this period the joint tenant's interest in the tenancy is terminated.

The termination of the tenancy should be calculated 8 weeks and one day from the date the joint tenant **Aban 3** was served.

At the end of the Joint Tenant **Aban 4** the remaining tenant continues to live in the property.

The tenancy does not end but the tenancy details are amended to show the abandoning tenant has ended as part of both the tenancy and the household and is no longer attached to that tenancy.