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ABANDONMENT PROCEDURE

PLACES FOR PEOPLE SCOTLAND

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INTRODUCTION

This procedure details how we identify and deal with the abandoned properties and suspected abandoned properties. We need to identify suspected abandoned properties promptly to minimise the damage to empty properties, blight to areas and reduce the loss of rental income.

This procedure is to be followed by Housing Services staff dealing with properties suspected of being abandoned under Sections 17-21 of the Housing (Scotland) Act 2001. It gives landlords the powers to deal with properties where the landlord has reason to believe that the property is unoccupied and that the tenant does not intend to occupy it as his or her home.

DEFINITION

For the purposes of this Procedure Note, the following definitions of terms will be used:

Abandonment: Where a tenant has, or appears to have given up their tenancy without giving notice or returning the keys.

House: Any house or flat owned by us.

Property: Any furniture, personal belongings or other items that are the property of the tenant.

INVESTIGATION PHASE

We must make sufficient inquiries to establish that the house is unoccupied and that the tenant has no intention of reoccupying it. It is essential that we can demonstrate that we have made sufficient enquiries to ascertain that a house has been abandoned.

A report that a property is abandoned may arise in a number of ways

• Report from neighbour

• A home visit that suggests the property is empty

• Escalating rent arrears

• No access to gas servicing

• Report from another part of Places for People Scotland

• Report from external agency

On receipt of indication that a property may be abandoned the Housing Officer should complete the [suspected abandonment checklist](#Suspected). This incorporates a checklist of issues to assist the Housing Officer in conducting enquiries prior to notice being served. This form needs to be completed in all cases.

In some cases, it may be appropriate to serve Notice prior to completing some of the checks on the list. The checklist should be used throughout the period of the Notice. These cases should be discussed with the Team Leader.

The Housing Officer should visit the tenant to ascertain if the property is unoccupied within 5 working days.

Housing Officer should check if the property is furnished by looking through windows where accessible and there is no risk of injury and check through the letterbox to tell if the house is furnished. The Housing Officer should also tactfully make enquiries with neighbours as to the tenants’ whereabouts and if they are still occupying the house.

If someone other than the tenant is occupying the house, attempts should be made to establish who that person is, what their relationship is with the tenant (if any) and subsequently whether they have any right to be occupying the house. The Housing Officer should request proof of identification from the person at this stage and detail their details and contact telephone number. All cases where the house is occupied by someone other than the tenant should be discussed with the Housing Services Team Leader to agree appropriate action.

If the tenant is located within the house but suggests they do not wish to occupy the property, they must be advised to give a month’s notice immediately and be informed of any outstanding rent. The Notice should be cancelled once written notice of termination is received.

If on inspection, the house is found to be insecure, then steps should be taken to secure it. Housing Officer should raise an emergency job by contacting the Customer Service Centre and then alert the Maintenance team with the job reference number to ensure the house is secured quickly. If this involves replacing any locks then details of how the tenant can arrange collection of the keys should be posted prominently on the property. The keys should only be handed over after the person collecting the keys has been verified as the tenant. This process should also be followed if the police break into the property because of concerns about the tenant’s welfare and they are not found to be in the property.

SERVING NOTICE – 1st Abandonment

Once the Housing Officer is satisfied that the house has most likely been abandoned arrangements should be made to serve the [First Abandonment Notice](#First_Notice). This should be signed by a Team Leader.

The Notice must be served on the tenant at their address by two members of staff, where possible utilise mobile staff: caretakers, repair operatives, trade supervisors. If the Housing Officer has reason to believe that the tenants is living at another address a copy of the Notice should be sent to the tenant at that address with a covering letter confirming that Notice has been served on their tenancy.

Two members of staff should serve the Notice. The date on the Notice must be the date on which it is served. Both staff members should sign and date a Service of Notice form. Efforts to locate the abandoning tenant should continue throughout the Notice period.

**Internal Reporting Requirement (IRR):** The Housing Officer should request a Customer Service Alert is created against the tenancy to alert other parts of the business an abandonment notice has been served and all contact with tenant should be referred back to the Housing Officer. Follow the Customer Service Alert Procedure.

The Housing Officer should then create a business action (28 day tenancy request) against the tenancy and all contact, serving of notices etc, should be added as events within this.

If this is a sole tenancy that is to be ended, the end of tenancy process [HM PRO - End of Tenancy.docx](HM%20PRO%20-%20End%20of%20Tenancy.docx) should be followed. This will alert the Voids and Lettings and New Tenancy Team that the house will potentially be available to let at the end of the Abandonment Notice.

If the tenant makes contact within the 28 day notice period, the Housing Officer should make arrangements to meet with the tenant at the house to interview the tenant and ascertain why the tenant has been absent from the house. If appropriate the Housing Officer should remind the tenant of their responsibility under their tenancy agreement to use their tenancy as their main or principle home.

In the event that the Housing Officer has evidence that the house, has not necessarily abandoned, is not being used by the tenant as their principal home, legal action should be taken for breach of the appropriate tenancy conditions (section 2.1 of the Scottish Secure Tenancy Agreement). A new business action (suspected non occupation or sublet) should be created.

SECOND NOTICE - TERMINATION OF TENANCY

On the 29th day a [Second Abandonment](#Second_Notice) Notice should be served. The Housing Officer must arrange for a joiner to also attend so the locks can be changed. The Second Notice must be hand-delivered by 2 members of staff no earlier than 4 weeks after the first notice. This brings the tenancy to an end and allows repossession without further notice. Copies of the Second Abandonment Notice should be sent to all possible or known addresses. See Repossessing a House for next steps.

The Housing Officer should terminate the tenancy on Northgate the same day the tenancy is ended unless it is a joint tenancy. See Joint Tenancy Section for what to do.

ABANDONMENT BY A JOINT TENANT

Where one tenant remains in the house and the other joint tenant has left but has not terminated their half of the tenancy in writing. Housing Officers should still use [Abandonment Checklist](#Suspected).

We should visit the remaining tenant to establish whether the abandoning tenant may return and any information regarding their whereabouts. Contact can be made with next of kin, neighbours or any other relevant parties to try to establish where the abandoning tenant is and whether they intend to return to the house. Details of responses should be noted and kept on file.

If their whereabouts is established contact should be made with the abandoning tenant to ask them to complete a Termination of Tenancy form to end their part of the tenancy. They should also be advised that they remain jointly liable for the obligations of the tenancy including the rent and service charge.

If it is not known where they are or they refuse to sign a Termination form then authorisation should be obtained from a Team Leader to serve a [1st Abandonment Joint Tenancy](#Joint_First) Notice. A copy of this Notice should be given to other joint tenants and sent to the address of the abandoning tenant if known.

Two members of staff should serve the Notice. The date on the 1st Abandonment Notice must be the date on which it is served. Both staff members should sign and date a [Service of Notice Form](#Witness). Efforts to locate the abandoning tenant should continue throughout the Notice period.

If the abandoning tenant has not made contact or moved back into the property within 4 weeks of serving the 1st Abandonment Joint Notice then a [2nd Abandonment joint Notice](#Joint_Second) should be served on the 29th day or the next working day. A copy of this Notice should be given to other joint tenants and sent to the address of the abandoning tenant if known. Two members of staff should serve the Notice. The date on the Notice must be the date on which it is served. Both staff members should sign and date a [Service of Notice Form](#Witness).

The date of ending the abandoning tenants’ interest in the tenancy should be at least 8 weeks and 1 day from the date of serving the Second Abandonment Notice.

The Housing Officer should create a diary reminder of 8 weeks and one to remind them to update Northgate and remove the Joint Tenant. Housing Officers should make contact with the existing tenant to advise that they are the sole tenant and now have full responsibility for rent and service charges. The Housing Officer should ensure that details on Northgate are updated and a notepad entry is entered on the rent account notepad detailing what action has been taken.

The Housing Officer should send the remaining tenant [the confirmation of tenancy letter](#Confirmation).

REPOSSESSING A HOUSE

The Abandonment Notice Period will end 29 days after the First Abandonment Notice was served or the next working day which will bring the tenancy to an end. The only exception to this is a joint tenancy abandonment and one tenant remains in the property.

Two members of staff should visit the house on the termination date and serve the 2nd Abandonment Notice. Arrangements should have been made for a joiner to attend, force entry and change the locks. A copy of the second notice should be placed on the front door of the property.

Photographs should be taken to record the state of the property and an inventory should be carried out and signed by the members of staff. Both the photographs and inventory should then be placed in the tenancy file on objective. A copy of the second notice should also be placed in the objective file.

If there are no belongings left in the house the Housing Officer should terminate the tenancy on Northgate and complete the Termination Memo. This can be found on Intranet/business apps/Termination Memo.

If the tenant is in receipt of Housing Benefit the Housing Officer should inform the relevant Revenue & Benefits Officer that the tenant’s tenancy has ended.

The Housing Officer should then take the new keys to the Voids Team and the normal void process should be followed. The Livingston Team should follow their Key Procedure.

If not instructed to store items then Void staff will assume everything in the house is to be disposed of.

The tenant is entitled to have their property returned on payment of the charges associated with its storage costs.

IRR: Where we have repossessed a property we must keep a paper copy of the abandonment served, the inventory and the abandonment checklist in the Abandonment Folder. This is a legal requirement which evidences all our actions taken.

REMAINING TENANT BELONGINGS

Section 18 of the Act says that we are responsible for storing any property in the house belonging to the tenant after it is repossessed. This must be stored for 6 months unless the value of it is less than the storage costs and/or less than the level of any rent arrears or sundry debt due by the tenant. We are entitled to sell the property if it has not been collected by the tenant at the end of the 6 month period.

Where, following repossession, personal belongings are found in the property, the Housing Officer must firstly; complete an [inventory](#Inventory) and take pictures of the property, judge whether the property left is worth more than the cost of removing and storing the property for 6 months.

If the property is worth less than this, then the Housing Officer must pass the keys to the Voids team and ask them to proceed under the normal void process.

If the property is worth more, then the legislation states that the property must be stored for 6 months from the date of repossession of the house. The Housing Officer must arrange this within three working days of gaining access to the property. Voids Team must be kept informed if items are being stored.

The Housing Officer will then need to liaise with external agencies to look at storage facilities within their area.

Once a contractor has been selected and given a quote a rechargeable repair account should be set up against the former tenancy. This should be done by emailing PropertyMaintenance.Scotland@placesforpeople.co.uk.

The Costs associated with the storage of items should be off set against the former tenancy.

The Housing Officer should set a reminder at this stage for 6 months’ time so they are alerted when the storage period is up.

If the former tenant makes contact they are entitled to have the property returned on payment of the charges associated with the storage.

RIGHT OF APPEAL

Section 19 of the Housing (Scotland) Act 2001 states that a tenant can challenge the landlord

Decision to terminate the tenancy by making a summary application in the sheriff court within 6 months of the termination date.

If it appears to the Sheriff that the landlord has not complied with legal procedure or did not have reasonable grounds for repossessing the property, then the Sheriff can order that the tenancy should continue (where the property has not been re-let) or direct the landlord to make suitable alternative accommodation available to the tenant.

Our actions will depend on whether the property has been re-allocated and whether it considers that there were reasonable grounds for repossessing the property. These decisions are the responsibility of the relevant Area Housing Manager:

If it is considered that we did not have reasonable grounds and the property has not been reallocated, then the ex-tenant will be offered a secure tenancy of the property. This tenancy will be back-dated to the commencement of their original tenancy.

If it is considered that we did not have reasonable grounds and the property has already been reallocated, then the ex-tenant will be offered a tenancy of the next suitable property available.

If it is considered that we did have reasonable grounds and the property has not been reallocated, then the ex-tenant will be advised that they would have to take legal action in the Sheriff court. The property will be kept vacant until the case has been resolved. The need for future action by us will depend on the decision of the Sheriff.

TRAINING

Training on the abandonment procedure will be provided for all Housing Services Staff.

**SUSPECTED ABANDONMENT CHECKLIST**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Tenant Name: | |  | | | | | | | |
| Address: | |  | | | | | | | |
| Tenancy Start Date: | |  | | | Tenancy Ref: | | | |  |
| Date Customer Service Alerted Created: | | | | | | | | | |
| Reason for suspected abandonment(Tick applicable):   * Report from neighbour * Home visit that suggest property is empty * Escalating rent arrears with no successful contact * No access to complete gas service * Report from another part of PFPS * Report from an external agency * Other: | | | | | | | | | |
| Is rent being paid? |  | | | Have letters been sent to tenants address: | | | |  | |
| Have keys been returned? |  | | | Do you suspect tenant is living elsewhere? | | | |  | |
| Contacted Emergency Contact: |  | | | Have we attempted contact at another address? | | | |  | |
| Have neighbours commented on the whereabouts of the tenant? |  | | | Does there appear to be any personal possessions in the house? | | | |  | |
| Any sign that curtains are opened and closed: |  | | | Have visits been made at different times of the day? | | | |  | |
| Anyone else living in the property: |  | | | Is mail accumulating or has it been collected? | | | |  | |
| Any signs that the refuse being used: |  | | | Is the garden cared for: | | | |  | |
| Any signs that the door of the house has been opened since last visit: |  | | | Does there appear to be any pets: | | | |  | |
| External meters - Take readings | Gas –  Electricity - | | | Check with utility suppliers if account is in tenants name: | | | |  | |
| Check with homeless: |  | | | Check HomeHunt/EdIndex: | | | |  | |
| Check with Police if tenant is in custody: |  | | | Any other relevant agency/employer: | | | |  | |
| Additional Comments: | | | | | | | | | |
| Have you identified any other occupiers – speak with your team leader: | | | | | |  | | | |
| Housing Officer signature: | | | | | | | | | |
| Date 1st Abandonment Served: | | | | | |  | | | |
| Date Northgate updated: | | | | | |  | | | |
| Date Customer Service Alert Requested: | | | | | |  | | | |
| Date DTBV completed: | | | | | |  | | | |
| Date 2nd Abandonment Served: | | | | | |  | | | |
| Date Tenancy Terminated on Northgate: | | | | | |  | | | |
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| **Repossession** | | | | | | | | | |
| Were personal items found in the property? Yes/No | | | | | | | | | |
| Have you completed an Inventory and taken photos? Yes/No  **Must be saved in the tenancy file** | | | | | | | | | |
| Are the personal items to be disposed of or to be stored? Disposal/Storage | | | | | | | | | |
| **Costs** | | | | | | | | | |
| Rent Loss after termination date due to storing furniture: | | | | | | | £ | | |
| Recharges | | | House Clearance Cost | | | | £ | | |
| External Storage Costs | | | | £ | | |
| Total | | | | | | | £ | | |
| **Long Term Storage Costs** | | | | | | |  | | |
| Date Contractor Contacted: | | | | | | |  | | |
| Date Items Placed in Storage: | | | | | | |  | | |
| Date items will be stored until (6 months after repossession): | | | | | | |  | | |
| Cost of Storage: | | | | | | | £ | | |
| Has there been a rechargeable repair account created: | | | | | | | Yes/No | | |
| Has there been any contact from former tenant during 6 month: | | | | | | | Yes/No | | |
| Disposal Date and Housing Officer Signature: | | | | | | | | | |

A picture containing graphical user interface

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Date of Visit:

|  |  |
| --- | --- |
| Name of Occupant: |  |
| Address: |  |
| Contact Details  Phone:  Email: |  |
| Name of Tenant: |  |
| Are they married or in a civil partnership with the tenant? Yes/No  Please give details (Length of time married/civil partnership): | |
| How long have they lived in the property? |  |
| Can they provide evidence of living in the property (name on bills, HB, council tax, electoral register) Yes/No  Give Details: | |
| Do they know the whereabouts of the tenant (suspected addresses)? Yes/No  Give Details:  Date the tenant left the property? | |
| Have they had any contact with them since (phone, text, email, Facebook etc.) Yes/No  Give Details: | |
| Is there any chance of reconciliation? Yes/No | |
| Are they aware that they might not be entitled to the tenancy? Yes/No | |
| Have you given Housing Advice? Yes/No  Give Details: | |
| Have you explained that you will have to serve a 1st Abandonment Notice and what the Abandonment Process is? Yes/No  Give Details: | |

Occupant Signature:

Housing Officer Signature:

Date:

**First Notice - Abandonment of a Scottish Secure Tenancy**

30 November 2021

**Name**

**Address**

**Abandonment of a Scottish Secure Tenancy**

After making reasonable enquiries Castle Rock Edinvar Housing Association, being the landlord of the above dwelling-house have reason to believe that the above property is unoccupied and that you do not intend to use it as your main or principle home.

Castle Rock Edinvar Housing Association is therefore serving notice on you Under Section 18 (Repossession) of the Housing (Scotland) Act 2001.

If you do not intend to occupy the property as your main or principal home, you are required to inform us in writing within 28 days of this Notice.

Any property of yours found in the dwelling-house after the said 28 day period may either be stored or disposed of. We will only store your property if its value is greater than the cost of storage and/or any debt due by you to us.

If you do not contact us by **DATE**, 28 days from service of this notice, it will be assumed you do not intend to occupy the property as your home. Your tenancy will therefore be ended on **DATE**, 28 days from service of this notice and Castle Rock Edinvar Housing Association will take possession of the property. You should contact your Housing Officer, **NAME OF HOUSING OFFICER**.

Signed on behalf of Castle Rock Edinvar Housing Association

Date

**Second Notice - Abandonment of a Scottish Secure Tenancy**

Date

Name

Address

**Abandonment of a Scottish Secure Tenancy**

Castle Rock Edinvar Housing Association wrote to you on **DATE OF 1ST ABANDONMENT SERVED**, advising you that we believed the above property was unoccupied and you were not occupying the property as your main or principal home**.**

We have carried out a number of enquiries andCastle Rock Edinvar Housing Association still believes that the property is unoccupied and that you do not intend to use it as your main or principal home.

Castle Rock Edinvar Housing Association has received no contact from you since the first abandonment was served confirming that you intend to occupy the property as your main or principal home.

The locks have been changed on DATE OF LOCK CHANGE at TIME OF LOCK CHANGE. The tenancy in your name has now been terminated and Castle Rock Edinvar Housing Association have now resumed possession of the above property.

Should you still intend to occupy the property as your main or principal home you must contact HOUSING OFFICER NAME, Housing Officer at Castle Rock Edinvar Housing Association to appeal this decision.

Signed on behalf of Castle Rock Edinvar Housing Association

Date

**First Notice –Abandonment by Joint Tenant**

*Date*

Name

Address

**Abandonment of a Scottish Secure Tenancy**

After making reasonable enquiries Castle Rock Edinvar Housing Association, being the landlord of the above dwelling-house have reason to believe that the above property is unoccupied and that you do not intend to use it as your main or principle home.

Castle Rock Edinvar Housing Association is therefore serving notice on you Under Section 18 (Repossession) of the Housing (Scotland) Act 2001.

You are required to inform us in writing by DATE, 28 days of the date of this Notice, whether or not you intend to occupy the dwelling-house as your home. If it appears to us at the end of the said 28 days that you do not intend to occupy the dwelling-house then a further Notice will be served which will end your interest in the tenancy. You should contact your Housing Officer, NAME OF HOUSING OFFICER.

While you are a joint tenant you remain jointly and severally liable for the obligations of the tenancy including any rent and service charge.

Signed on behalf of Castle Rock Edinvar Housing Association

Date

**Second Notice –Abandonment by Joint Tenant**

*Date*

Name

Address

**Abandonment of a Scottish Secure Tenancy**

Castle Rock Edinvar Housing Association wrote to you on **DATE OF 1ST ABANDONMENT SERVED**, advising you that we believed the above property was not being occupied by you as your main or principal home**.**

We have carried out a number of enquiries andCastle Rock Edinvar Housing Association still believes that the property is unoccupied and that you do not intend to use it as your main or principal home.

Castle Rock Edinvar Housing Association has received not contact from you confirming that you intend to occupy the property as your main or principal home.

Accordingly your interest in the tenancy will end with effect from ***date –at least 8 weeks from the serving of this Notice****.*

Until this date you remain jointly and severally liable for the obligations of the tenancy including any rent and service charge. *(****Optional –At present the sum of £xxx is outstanding on the account).***

Should you still intend to occupy the property as your main or principal home you must contact HOUSING OFFICER NAME, Housing Officer at Castle Rock Edinvar Housing Association to appeal this decision.

Signed on behalf of Castle Rock Edinvar Housing Association

Date

**Witness Sheet**

**Service of Notice:**

**This is to certify that on DATE we the undersigned served a 1stor 2nd Abandonment Notice on:**

**ADDRESS**

Signed

Name

Designation Housing Officer

Signed

Name

Designation

Places for People Scotland

1 Hay Avenue

Edinburgh

EH16 4RW

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| **INVENTORY** | | | |
| Tenant Name: |  | | |
| Address: |  | | |
| List the items found in each room and tick if they are to be disposed of or kept for storage | | | |
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| Date: |  |  |  |
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|  |  | **Housing Services** | |
|  | 1 Hay Avenue | |
|  | Edinburgh | |
|  | EH16 4RW | |
|  |  |  |
|  | Telephone: | 0131 657 0600 |
|  | Fax: | 0131 657 0700 |
|  | Dear |  |  |

**Confirmation of Sole Tenancy**

I am writing to confirm that you are now the sole tenant at INSERT ADDRESS as of INSERT DATE OF SECOND ABANDONMENT.

This means you are now solely responsible for paying your rent, currently your rent account balance is £INSERT AMOUNT. Please contact your Income Collection Officer to make a suitable arrangement.

Your records have now been updated, please do not hesitate to contact me on 0131 657 0600 if you have any further questions.

Yours sincerely

**Name**

**Housing Officer**

**Tel:** 0131 6570600

**Email:** CREHousing@placesforpeople.co.uk