

HORIZON HOUSING ASSOCIATION LIMITED	<b>HOUSING POLICY</b>
TITLE	<b>ABANDONMENT AND REPOSSESSION OF PROPERTY</b>
DATE OF APPROVAL	<b>June 2009</b>
DATE OF REVIEW	<b>June 2012</b>

## **1. Aim**

**1.1** The Association aim to re-let properties as quickly as possible in order to minimise rent loss resulting from abandoned properties. The key aims are:

- To determine quickly where a property is abandoned
- To minimise the rent loss
- To minimise the time a property is unoccupied
- To minimise the cost of storing belongings
- To respects the rights of tenants and occupants specified within the tenancy agreement

**1.2** To end a joint tenancy where it believes that one of the joint tenants has abandoned the property. This gives security to the remaining tenant still residing in the property (refer to section 5).

**1.3** To follow procedures in line with Section 17 & 18 of the Housing (Scotland) Act 2001.

## **2. DEFINING ABANDONED PROPERTY**

**2.1** On occasions some tenants cease to occupy a property without completing the procedures laid out in the Tenancy Agreement for the termination of their tenancy. This situation is referred to as abandonment of the property.

**2.2** Where the Association believes that a tenant has abandoned the property, Housing Services staff will carry out an exhaustive and auditable process of attempting to contact the tenant, if unsuccessful will follow the statutory procedure detailed below:

## **3. RECOVERING POSSESSION OF ABANDONED PROPERTY**

**3.1** Where our efforts to contact the tenant/s are unsuccessful, an Abandonment Notice, will be served on the tenant/s, at the address of the property, The Notice will either be served by two members of staff, who will both sign, date and witnessed the serving of this notice or be served by sheriff officers, depending of the locality of the property.

The Notice will state:

- a. That we believe the property to be unoccupied and that the tenant

has abandoned the property and that they have ceased to occupy the property as their only or principal home,

- b. That the tenant must contact us in writing to confirm that they intend to return to occupy the property within 4 weeks of the servicing of the notice,
- c. That, if there is no contact, the tenancy will be ended immediately at the end of the four week period by the serving of a second notice.
- d. That, if necessary, we have the right to enter the house by force at the end of the four week period,
- e. That we will take an inventory of all property and possessions within the home (including garden) and remove them to storage if they have any value.
- f. That we will end the tenancy and the tenant's right to occupy the property,
- g. That we will re-let the house in line with its Allocations policy.

**3.2** If the tenant contacts the Association during the 4 week period of the first notice the Association will advise the tenant of their obligation to either end their tenancy in the usual manner, or to confirm in writing that they intend to stay in the property as their only and principal home, and in future meet the Conditions of their tenancy in full.

**3.3** If, after 4 weeks, there is no contact by the tenant, a further, final notice will be served, bringing the tenancy to an end, with immediate effect.

#### **4. DEALING WITH TENANT'S POSSESSIONS IN ABANDONED PROPERTY**

**4.1** The Association will take an inventory and assess the value of any belongings left in the property. Where the value, if sold, is greater than the cost of storage and any outstanding rent arrears the belonging should be removed and stored for up to a maximum of 6 months.

**4.2** Where the former tenant makes contact within the 6 month period, they will be require to pay any rent arrears, outstanding rechargeable repairs, costs of securing the property and restoring it to a let-able condition and/or the storage costs.

**4.3** In the event of the goods not being claimed within the six-month period, they may be disposed of at the Association's discretion, including sale. Any funds received from sale will be used to defray the costs described in

4.2 above.

- 4.4** Section 19 of the Housing (Scotland) Act 2001 gives a tenant whose house has been repossessed the right of appeal to the court by summary application. This must be within 6 months from the date of termination.

## **5. ABANDONMENT BY A JOINT TENANT**

The Housing (Scotland) Act 2001 introduced new legislation concerning joint tenancies where an Association has reasonable grounds to believe that a joint tenant has abandoned their tenancy.

- 5.1** Staff will make all reasonable auditable enquiries to satisfy that the abandoning tenant is not occupying the house and does not intend to occupy it as their principal home. Staff will seek to contact the joint tenant at their present address inviting them to put in writing their intention to end their interest in our property, since they are no longer resident.

- 5.2** Where the Association is unable to make contact with the joint tenant or if the joint tenant does not put in writing to the Association their intention to end the tenancy the Association will serve an Abandonment Notice on the interest of the joint tenant.

- 5.3** The Notice will state:

- a. That we believe that the joint tenant has abandoned their interest in the property and that they have ceased to occupy the property as their only or principal home.
- b. That they must contact us in writing to confirm that they intend to return to occupy the property within 4 weeks of the service of the notice.
- c. That should no contact be made, a further notice will be served which will bring, after a further 28 days, their interest in the tenancy to an end.
- d. That only their interest in the tenancy will end and the tenancy will continue and be held in the name of the remaining tenant only.

- 5.4** Under Section 20 of the Housing (Scotland) Act, a tenant who has had their interest in the property terminated has eight weeks to appeal against the decision.

- 5.5** The exception of the above will be where there is a dispute as to who should live in the property under the Matrimonial Homes Act. No abandonment notice should be served in these circumstances. In such

cases, where the tenants cannot agree, a Court will decide who should keep the tenancy and the Association will be notified by the Court.

## **6.0 ABANDONMENT REGISTER**

Where a property has been repossessed under the Abandonment Procedure this will be noted in an Abandonment Register.

This Register will be considered a public document and available for inspection for up to 5 years after the abandonment of the property.

Where an abandonment notice has been served on a joint tenant or qualifying occupier this should also be recorded in the Register.

## **7. DEALING WITH TENANTS WHO DO NOT OCCUPY PROPERTY AS THEIR ONLY OR PRINCIPAL HOME**

**7.1** The Association may find that a tenant has ceased to occupy a property as their only or principal home. They may be unwilling to end the tenancy in the usual manner, but wish to maintain an interest in the property.

**7.2** In such situations, where the Association is unable to identify an acceptable reason for absence from the property or an acceptable date for return to occupy the property, the Association will instruct its solicitors to commence proceedings for recovery of possession on the basis that the tenant has breached the conditions of tenancy by failing to occupy the property as their only or principal home. This will be in addition to any other conditions of tenancy that are broken.

## **8. COMPLAINTS**

**8.1** Tenants and former tenants aggrieved by the actions detailed in this policy shall have the right of appeal and can complain as described in the Association's Complaints procedure for a period of six months after the termination of their tenancy.

**8.2** In the event that a complaint is upheld and the Association has acted improperly to end a tenancy, the Association will offer suitable alternative accommodation to the aggrieved tenant as soon as it is able to do so.

## **10. REVIEW OF THIS POLICY**

**10.1** This policy shall be reviewed every three years.