

Abandonment Procedure

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Summary of Changes

Section	Change
Throughout	Into new procedural format
	Change in procedure reference to tie into new policy

Abandonment Procedure

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1.0 Introduction

Under the terms of the Scottish Secure Tenancy Agreement, tenants have a duty to occupy the property as their main or principal home. However, occasionally, a tenant, or joint tenants, may abandon the property or their share of a property. This procedure describes our arrangements for re-possessing the property in accordance with the provisions of Sections 17 – 21 of the Housing (Scotland) Act 2001 and subsequent guidance.

The Housing (Scotland) Act 2001 outlines the definition of abandonment and incorporates good practice procedures that landlords should follow when recovering possession of an abandoned property.

This procedure applies only where the Scottish Secure Tenancy or an Occupancy Agreement for Shared Housing has been signed. If either of these agreements is not in place, we will instigate court proceedings.

Throughout all the stages in this procedure diary notes **must** be made on Housing Management System and any correspondence or evidence **added** to the electronic Tenancy File.

2.0 Abandonment of the Whole Property

A property may be abandoned by a single tenant or by joint tenants. To avoid repetition, in the remainder of this section it is assumed that the property has been abandoned by a single tenant, unless otherwise stated.

2.1 Initial enquiries & action

A Maintenance Officer (MO) or Housing Services Officer (HSO) may suspect that a property has been abandoned due to:

- A lack of response to phone calls or letters;
- The general appearance of a property during a visit;
- A report from a neighbour or member of the public that a property is or appears to have been abandoned.

When the HSO first suspects or receives a report about an abandoned property they will:

- If they have not already seen the property, visit it within **2 working days** to start to assess if it is being lived in;

- Decide if entry will be required to make it safe against vandalism, or in very cold conditions, to prevent burst pipes;
- Contact neighbours, known family/friends to establish the tenant's whereabouts;
- Within **3 working days** of starting enquiries, if no contact has been made by the tenant, the HSO will produce the **Abandonment Letter 1 (Appendix 1)**. The letter will be addressed to the property, as the tenant's last known address, and will give the tenant notice that if they do not reply in writing within 28 days that they intend to occupy the property then the tenancy will be terminated. It will be hand delivered to the property by the HSO and a housing or maintenance colleague;
- The **Record of Delivery form (Appendix 2)** will be completed by whoever delivers the letter and added to the electronic house file;
- Make an entry in their calendar for **14 days** from the date of the first report. If there has been no contact by the tenant the allocation process will be started;
- Add entries to their own calendar and the Senior Housing Services Officer (SHSO) calendar to flag up follow-up action, for **21, 26 and 28 days** from the date of the letter

Where there are joint tenants, a separate letter must be sent to each joint tenant.

2.2 Gaining entry and recording the property condition

If the HSO, in consultation with MO, decides that the property should be made safe without any further delay to avoid, for example; the possibility of break-in's, vandalism or frost damage etc., they will arrange a forced entry with a joiner present, the locks will be changed and the property made secure.

The MO and HSO will be present and will take photographs to record:

- The internal and external condition of the property;
- Any personal possessions present.

The new keys will be held either at The Priory Office or at the Forres Office, depending on the location of the property. In case the tenant should return, the HSO will fix a note to the front door advising that the lock has been changed and giving the appropriate office contact number.

2.3 Collecting evidence

By the **21st day** from the date of the first file note the HSO will complete enquiries to establish if the tenant is occupying the property. These will include:

- Making several visits to the property at different times to check for occupancy, e.g. does the position of the curtains change, is there mail behind the door (if it can be

seen), is there furniture still in the home (if it can be seen), is the refuse bin full and/or being emptied; are the meter readings changing?

- Speaking to neighbours to establish when they last saw the tenant(s);
- Following up all possible contacts, including any next of kin for whom we have contact details; any employer, the Health Board/local hospital, school, Police and any other appropriate agency regarding the tenant's possible whereabouts;
- Collecting photographic and other evidence as to whether the tenant is occupying the property, including checking meter readings where the meters are accessible;

2.4 Recommendation to re-possess the property

If the HSO still believes that the property has been abandoned, they will:

- By the **26th day** following the first letter issue an **Abandonment Letter 2 (Appendix 3)** giving 24 hours notice of repossession. This letter will be signed by the SHSO. In the SHSO's absence the letter will be signed by the Head of Housing Services (HoHS). It will be hand delivered to the property by the HSO and a housing or maintenance colleague;
- Complete an **Abandonment Report (Appendix 4)** recommending re-possession of the property. The report will be approved and signed by the SHSO, and the date of approval will be added to Housing Management System;
- Complete the **Record of Delivery Form (Appendix 2)** and update all file notes.

Where there are joint tenants, a separate letter must be produced for each tenant.

2.5 Re-possessing the property

At the end of the **28-day** statutory notice period, if there has been no contact from the tenant or anyone on their behalf, the HSO will:

- Produce a **Final Abandonment Letter (Appendix 5)** stating that we are satisfied that the property is unoccupied, that the tenant does not intend to occupy it as their home, that the tenancy has been terminated and the property re-possessed with immediate effect. The letter will be signed by the SHSO;
- Hand delivered with a housing or maintenance colleague and complete the **Record of Delivery form (Appendix 2)**.

Where there are joint tenants, a separate letter must be produced for each tenant.

2.6 Condition of the property

The MO will record the general condition of the property as per the Void Properties procedure (HAM02b) and take as many photographs as necessary as proof of the property condition at the time of repossession.

2.7 Personal Possessions

If any personal possessions have been left the MO and HSO will complete an **Inventory Form (Appendix 6)** detailing all of the items left behind, take photos and store in the electronic tenancy file.

The items left behind will normally be cleared, **unless** the estimated value is greater than the estimated cost of storage plus the amount of any rent or other arrears owed by the tenant.

If there is any doubt about the value of any goods left the HSO will arrange for an independent valuation by a Sheriff Officer.

Should the value of the goods be higher than the estimated costs etc. the HSO will arrange for the goods to be stored in a local commercial storage facility for up to 6 months, following which, if they have not been claimed, they will be disposed of, by sale if possible.

If any valuable personal items are found, such as passport, driving licence, bank cards/statements, housing benefit letters, Council Tax letters etc. the HSO will take these back to the office and give them to the Housing Assistant who will hold them in lockable storage for 1 month. If the former tenant has not made contact to enquire about these items by the end of the month the Housing Assistant will arrange to send them to the appropriate authority or agency with a covering letter explaining how they were found and why they are being returned.

2.8 Contact by Tenant during the 28 day period

If the tenant makes contact at any time during the 28 days and the relevant HSO is not present, the colleague taking the message will ensure that this is passed on to the HSO without delay.

The HSO will ensure they add relevant details to Housing Management System so that any colleague taking a call from the tenant is able to check on the up-to-date position.

Should the abandoning tenant re-appear and re-occupy the property the HSO will ensure that this is recorded on Housing Management System and in the house file as appropriate.

3.0 Abandonment by a joint tenant

A HSO may be advised by a joint tenant that the other joint tenant is no longer living at the property.

3.1 Initial action

In such cases they will:

- Issue the **Joint Tenancy Abandonment Letter** (Appendix 7). The letter will advise the abandoning joint tenant that if they do not respond in writing within **28 days** to confirm that they intend to occupy the property as their home then their interest in the tenancy will be terminated;
- The letter will be hand delivered to the property by the HSO and a housing or maintenance colleague and a **Record of Delivery form** (Appendix 2) will be completed;
- A copy of the letter will be given to the remaining joint tenant;
- Continue to collect evidence throughout the 28 days to confirm that the joint tenant is no longer living there.

The HSO will add relevant details on Housing Management System and will add entries to their own and the HoHS's calendars to flag up follow-up action, for **21 and 28 days** from the date of the first letter.

3.2 Recommendation to end the tenancy

At the end of **28 days**, if there has been no contact from the abandoning joint tenant, the HSO will:

- Issue a **Final Letter** (Appendix 8), signed by the SHSO, advising the abandoning joint tenant that their interest in the tenancy will be ended eight weeks from the date of the letter. In the SHO's absence the letter will be signed by the HoHS;
- The letter will be hand delivered to the property and a **Record of Delivery Form** (Appendix 2) which will be completed;
- A copy of the letter will be given to the remaining joint tenant;
- Complete an **Abandonment Report** (Appendix 4);
- Make a diary note for 8 weeks later to finalise the termination of the joint tenancy.

3.3 Ending the tenancy

At the end of 8 weeks, if no response has been received from the abandoning joint tenant, the HSO will:

- Write to the abandoning tenant at their last known address to confirm that their interest in the tenancy has ended (**Appendix 9**);
- Write to the remaining tenant with a copy of the letter to confirm that the tenancy has now become a single tenancy in their name (**Appendix 10**);
- Amend all relevant tenancy details on Housing Management System and in the house file.

3.4 Tenant responds

If at any stage in the process the abandoning tenant responds, either verbally or in writing, the HSO will immediately seek to confirm whether or not the tenant does intend to occupy the property as their home.

If they do want to end their tenancy, they will be asked to complete a Tenancy Termination Form and an end date can be negotiated.

4.0 Other persons occupying the property

Where a tenant has abandoned the property but there is one or more other household members still living there, we will not be able to serve an abandonment notice and repossess the property under this procedure.

In these circumstances, once it has been established that the tenant will not be returning to the property, the HSO will issue a Notice of Proceedings (NOP) and begin the process leading to an application to the Sheriff Court for a decree to re-possess the property.

5.0 Right of appeal to the sheriff court

5.1 Appeal against re-possession of the property

Where a property has been re-possessed under Section 18 of the 2001 Act as a result of the abandonment procedures, the abandoning tenant may, as specified in section 19 of the Act, appeal against the decision to the Sheriff Court. The tenant may appeal up to 6 months from the date of re-possession.

If the Sheriff finds that we failed to comply with any provision in Section 18 of the Act or that we acted wrongly or unreasonably in re-possessing the property and ending the tenancy, the court will order the tenancy to continue.

If the property has subsequently been let to a new tenant, the court will direct Ark to provide other suitable accommodation, as defined in Part 2 of Schedule 2 to the Act.

5.2 Appeal by former joint tenant

Where a joint tenancy has been ended under Section 20 of the Act as a result of the abandonment procedures in Section 3 above the abandoning tenant may, as specified in Section 21 of the Act, appeal against the decision to the Sheriff Court. The tenant may appeal within the 8-week period covered by the notice letter (Appendix 8).

If the Sheriff finds that we failed to comply with any provision in Section 20 of the Act, or that we did not have reasonable grounds for finding that the tenant had abandoned the tenancy, or that we were in error and the tenant had a good reason, such as illness, for failing to notify us that they intended to keep their interest in the tenancy, the court will rule that the notice we served is not valid and the tenant must be re-instated. Where it is unreasonable to do this the court will order that we must provide suitable alternative accommodation for the tenant as defined in the Act.

6.0 Implementation and Review

6.1 Implementation

The Head of Housing Services is responsible for ensuring that this procedure is followed when required.

6.2 Review

The Head of Housing Services will ensure that this procedure is reviewed at least every three years.

Appendix 1 Abandonment Letter 1

Name

Address

Town

Post Code

Abandonment of a Scottish Secure Tenancy

ADDRESS

After making reasonable enquiries, ArkHousing Association, being the landlord of the above dwelling-house, has reason to believe that the above property is unoccupied and that you do not intend to use it as your main or principal home.

Ark 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 ARK Housing Association will take possession of the property.

Signed on behalf of ARK Housing Association

NAME

Designation

Date:

Appendix 2 Record of Delivery Form

ABANDONMENT - RECORD OF DELIVERY

Tenant's Name:

Address:

The Abandonment Letter as listed below was hand delivered to the following addresses:

Address	Town

Abandonment of Property (tick one)
one)

1st Abandonment letter

2nd Abandonment letter

Final Abandonment letter

Abandonment by a Joint Tenant (tick one)

1st Abandonment letter

2nd Abandonment letter

Final Abandonment letter

Signature	
Designation	
Date	03 March 2022

Witness Signature	
Designation	
Date	03 March 2022

Have we attempted contact at another address?		
Has tenant reported any repairs recently?		
Are curtains open?		
Is garden maintained?		
Any personal possessions evident in property?		
Is the bin being used?		
Is mail accumulating?		
Any signs door has been opened recently?		
Any pets visible?		
Have visits been made at different times of day?		
Check with police if tenant is in custody		
Check gas/electric usage between visits?		
Have you identified any other occupants?		
Housing Management System updated?		

Contact Attempts

Details of contact attempt	Comments

Additional Comments

Signature:

Name:

Date:

Part 2 - Repossession

Date of lock change:

	Yes/No	Comments
Were there personal items in property?		
Have you completed an inventory and taken photos? SAVE IN TENANCY FILE		
Are personal items to be stored or disposed of?		
Date items placed in storage		
Storage facility address and contact		

Costs

Rent loss after termination date due to storing furniture	Dates:	£
Recharges	House clearance: External Storage costs Rechargeable repairs	£ £ £ £ £ £
		TOTAL:

DATE ITEMS DISPOSED OF:

Signature

Name:

Date:

Appendix 4 Abandonment Letter 2

Thursday, 03 March 2022

Name

Address

Town

Post Code

Dear **NAME**

Section 18 of The Housing (Scotland) Act 2001: Notice of Termination of Secure Tenancy

ADDRESS

On **Date of First Letter , Ark Housing Association served on you a notice requiring you to inform us in writing within 28 days that you intended to occupy the property at **address** as your home.**

Ark Housing Association is now satisfied that the property is unoccupied and that you do not intend to occupy it as your home. We therefore give you notice that the tenancy has been terminated with immediate effect.

Signed on behalf of ARK Housing Association

NAME

Date:

Appendix 5 Final Abandonment Letter

Thursday, 03 March 2022

Name

Address

Town

Post Code

Abandonment of a Scottish Secure Tenancy

ADDRESS

Ark 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 and ARK Housing Association still believes that the property is unoccupied and that you do not intend to use it as your main or principal home.

Ark 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 ARK Housing Association ~~have~~ **has** 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 Services Officer at ARK Housing Association to appeal this decision.

Signed on behalf of ARK Housing Association

NAME

Date:

Sign
Witness

Name
Name

Date
Date

Appendix 7 First Abandonment Letter - Joint tenant

Thursday, 03 March 2022

Name and address of joint tenant

Dear **Name**

Section 20 (2) of the Housing (Scotland) Act 2001:
Notice of Termination of Interest in Scottish Secure Tenancy

I have reason to believe that you are not occupying the property at **address** and that you do not intend to occupy it as your main and principal home.

I therefore give you notice that if you intend to occupy it as your home, you must inform me in writing with 28 days of the date shown at the top of this letter.

I further inform you that if it appears to ARK Housing Association at the end of the 28 days that you do not intend to occupy the house as your main and principal home, we will serve a further notice bringing your interest in the tenancy to an end.

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

Yours sincerely

Name

Housing Services Officer

Tel:

Mobile:

Email:

Appendix 8 Final Abandonment Letter - Joint tenant

Thursday, 03 March 2022

Name and address of joint tenant

Dear **Name**

**Section 20 of the Housing (Scotland) Act 2001:
Notice of Termination of Interest in Scottish Secure Tenancy**

On **date of first notice**, ARK Housing Association served on you a notice requiring you to inform us in writing within 28 days that you intended to occupy the property at **address** as your main and principal home.

Ark Housing Association is now satisfied that you are not occupying the property and that you do not intend to occupy it as your main and principal home. We therefore give you notice that your interest in the tenancy will be ended on **date**.

Yours sincerely

Name

Housing Services Officer

Tel:

Mobile:

Email:

Appendix 9 Confirmation of End of Interest in Tenancy

Thursday, 03 March 2022

Name
Address

Dear **Name**

Confirmation of End of Interest in Tenancy at ADDRESS OF TENANCY

I am writing to confirm that Ark Housing Association has now ended your interest in the above tenancy as of **INSERT DATE OF SECOND ABANDONMENT LETTER** + 8 weeks.

Our records have now been updated. Please contact me if you have any further questions.

Yours sincerely

Name
Housing Services Officer
Tel:
Mobile:
Email:

Appendix 10 Confirmation of End of Joint Tenancy

Thursday, 03 March 2022

Name
Address

Dear **Name**

Confirmation of Sole Tenancy

I am writing to confirm that you are now the sole tenant at **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**.

Our records have now been updated, please contact me if you have any further questions.

Yours sincerely

Name
Housing Services Officer
Tel:
Mobile:
Email: