

# Abandonment Policy



Approved by Management Committee: January 09

Date of next Review: January

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## **1 Introduction**

- 1.1 The purpose of this policy is to outline how Easthall Park Housing Co-operative will investigate and recover possession of abandoned properties.

## **2 Equal Opportunities**

- 2.1 Easthall Park Housing Co-operative is committed to equal opportunities for all sections of the community. Accordingly, no person will be discriminated against during the implementation of this policy on the grounds of sex, marital status, family circumstances, race, ethnic or national origins, disability, age, religion, political or sexual orientation.
- 2.2 In this context, the policy can be made available in a variety of different formats including large print, alternative languages and audiotape.

## **3 The Law**

- 3.1 The Housing (Scotland) Act 2001 provides the legal framework for investigating and recovering a house abandoned by a tenant. The relevant grounds of the Act are Section 17-21.
- Section 17 enables action to be taken to secure and take possession of a house which appears to be abandoned by the tenant.
  - Section 18 sets out the procedures which must be followed if the landlords wish to take possession of an abandoned house.
  - Section 19 gives a Scottish Secure Tenant whose house has been repossessed a right of appeal to the Court within 6 months of repossession.
  - Section 20 allows action to be taken to bring to an end the interest of a joint tenant where that joint tenant appears to have abandoned the joint tenancy.
  - Section 21 gives a joint tenant a right of appeal to the Court within 8 weeks of repossession.
- 3.2 Sections 6.4 and 6.8 of the Easthall Park Housing Co-operative's Scottish Secure Tenancy Agreement sets out the conditions as to how and when we will recover possession of a property through the abandonment process.

## 4 Investigating Abandoned Properties

4.1 Under Section 17 and 18 of the above Act, the Co-operative may terminate a Scottish Secure Tenancy if it has reasonable grounds for believing that:

- The house is not occupied; and
- The tenant does not intend to occupy the house as the tenant's home

4.2 If the Co-operative believes a property has been abandoned, we can enter the house **at any time** to secure the property, fittings, fixtures or furniture against vandalism.

4.3 The Co-operative may be advised of an abandoned house in a variety of ways. This may include:

- Mail returned marked "gone away"
- Utility company advise that tenant has vacated the property
- No reply from staff contact (e.g. correspondence and call back cards)
- Workmen unable to gain access to complete repairs
- Neighbour(s) advise tenant has left
- Staff notice house appears unoccupied.

4.4 The Co-operative before servicing an abandonment notice will undertake reasonable enquiries to satisfy ourselves that the house has been abandoned. Examples of appropriate enquiries include:

- Check rent account
- Check with neighbours
- Check with schools
- Check with family
- Condition of house internally and externally – e.g., garden overgrown, no curtains in house

## 5 Serving the Abandonment Notice

5.1 The first notice will be served giving the tenant 4 weeks notice in writing of intent to recover possession of property. The notice will be hand delivered by two Co-operative Officers and a Service of Notice Form completed. If the property is not secure, we will arrange lock change and secure the property and any fittings, fixtures or furniture against vandalism. If we have an alternative address, a copy of the notice should again be hand delivered, as above (if address is local), or by recorded delivery if it is not.

- 5.2 The second notice should be served a full and clear four weeks after the date the first notice was served, if it appears the property remains unoccupied. The notice will again be hand-delivered by two Officers and, if we have an alternative address, delivered by same means highlighted above. The property becomes void on the date of this second notice.

## **6 Abandonment by Joint Tenant**

- 6.1 As above, reasonable enquiries must be undertaken before commencing this action.
- 6.2 The first notice should be served giving the joint tenant 4 weeks notice in writing. The notice again must be hand-delivered by two Officers and Service of Notice form completed. If we have an alternative address, the same process as detailed at Section 5 is followed.
- 6.3 The second notice should be served a full and clear 4 weeks after the date the first notice was served, if it appears the abandoning tenant does not intend to occupy the house. This notice will advise the abandoning tenant that their interest in the tenancy will be brought to an end 8 weeks after the date of the second notice. The service of the notice again follows the same processes as detailed previously.
- 6.4 The third notice issued to the abandoning tenant is the final notice to bring the tenancy to an end and should be served a full and clear 8 weeks from the date of the second notice. Again, the same processes follow in servicing the third notice. The joint tenancy ends on the date of this third notice.

## **7 Storage of Furniture**

- 7.1 If the Co-operative find property belonging to the tenant in the house we will take the property into possession. A notice will be served on the tenant (same method of delivery as above) informing the tenant property is in possession and it can be retained from the Co-operative within a minimum period of 28 days.
- 7.2 At the end of the 28-day period, if the tenant has not collected the property, the Co-operative will store the property for a further 6 months unless the value of the property is less than the cost of storage. At the end of the 6-month period, the Co-operative can dispose of the property by sale.

## **8 Appeals**

- 8.1 Any tenant who feels that they have been treated unfairly or wrongly have a right to appeal, as set out in the Co-operative's complaint policy.

8.2 A tenant who has had their house repossessed by the abandonment procedure also has a right of appeal to the court within 6 months of the repossession. Where the court finds that the landlord acted wrongly or unreasonably, it must order the tenancy to continue or direct the landlord to provide other suitable accommodation.

8.3 A joint tenant also has a right of external appeal to the court and must make an application within 8 weeks of the landlord bring their interest in a property to an end. Again, where the court finds that the landlord acted wrongly or unreasonably, it may reinstate the joint tenant or direct the landlord to provide other suitable accommodation.

## **9 Register of Abandoned Properties**

9.1 A register of all properties involved in abandoned housing proceedings is maintained and available for public access at the Co-operatives office.

## **10 Committee Reporting**

10 A report on the number of abandoned notices served and tenancies reposed will be reported on a regular basis to Committee.