



Putting People 1st

Abandonment Policy

H.01

Reviewed 29th September 2022

Date next due for review: September 2025

This policy document can be produced in various formats, for instance, in larger print or audio-format. It can also be translated into other languages, as appropriate.

Our equality and diversity policy statement describes our key equality commitments that we use to develop all organisational services; this includes employment services and services to tenants and other customers.

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The Scottish Housing Regulator Reg. No: HAC231; Registered Scottish Charity No: SC038237;
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1. Introduction

1.1 It is a condition of the Association's Tenancy Agreement that the tenant (and each joint tenant) must live in the tenancy as their only (or principal) home.

1.2 This relates to the common law duty to occupy the property and is a standard condition found in the tenancy agreements used by all Registered Social Landlords.

1.3 The Scottish Secure Tenancy Agreement and the Housing (Scotland) Act 2001 detail the steps that should be taken by tenants in order to terminate their tenancy.

1.4 When an outgoing tenant fails to follow these steps then the property may be deemed to be abandoned.

1.5 The Housing (Scotland) Act makes provision for landlords to take possession of a property that has been abandoned.

1.6 Pineview Housing Association takes seriously the need to minimise the number of properties that have been abandoned, that is, where the tenant has ceased to live in the property as their only or principal home but has not formally given notice to us to end their tenancy.

The main reasons for this are that abandoned properties:

- Prevent the Association making best use of its housing stock by being empty but unable to be let while a tenancy still exists.
- Can cause estate management problems e.g. failure to maintain private or communal areas.
- Can result in rent arrears if housing benefit/ universal credit housing allowance is cancelled.

1.7 This Abandonment Policy is supplemented by detailed working procedures which will be used by staff in implementing the policy.

2. Policy Aims and Objectives

2.1 The overall aim of this policy is to identify, repossess (in accordance with legislation) and relet properties as quickly as possible in order to minimise the rent loss resulting from abandoned properties.

2.2 The specific objectives of this policy are:

- To determine quickly whether a property is abandoned
- To minimise the time a property is unoccupied
- To minimise the rent loss
- To minimise costs to the Association e.g. of repairs, storing belongings etc.
- To reduce estate management problems arising from an unoccupied property
- To protect the rights of tenants and the Association when repossessing a property

3. Legal and Regulatory Framework

3.0 Pineview Housing Association will have full regard to the requirements of the Scottish Social Housing Charter, good practice guidance and legislation in its approach to managing abandoned properties.

3.1 Legal Requirements:

This policy and its implementation will reflect our statutory and contractual obligations. This includes (but is not an exhaustive list):

- The Scottish Secure Tenancy Agreement
- The Housing (Scotland) Act 2001 & 2014
- The Scottish Secure Tenancy (Abandoned Property) Order 2002
- The UK General Data Protection Regulation and the Data Protection Act 2018
- The Equality Act 2010
- The Human Rights Act 1998

3.2 Scottish Housing Regulator (SHR) and the Scottish Social Housing Charter

3.2.1 The Scottish Housing Regulator (SHR) was set up to operate as an independent regulator who is directly accountable to the Scottish Parliament.

3.2.2 The SHR monitors, assesses, compares and reports on social landlords' performance of housing activities.

3.2.3 It requires landlords to collect and provide key information on their performance in relation to achieving the Scottish Social Housing Charter (SSHC) outcomes and standards.

3.2.4 Information on the SHR and the SSHC can be found at www.scottishhousingregulator.co.uk

3.2.5 The following SSHC outcomes and standards are directly relevant to this abandonment policy:

Charter Outcome 6 – Estate management, anti-social behaviour, neighbour nuisance and tenancy disputes

'Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that:

- Tenants and other customers live in well-maintained neighbourhoods where they feel safe.

Charter Outcome 11 – Tenancy sustainment

'Social landlords ensure that:

- Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations.

Charter Outcome 13 – Value for money

'Social landlords manage all aspects of their businesses so that:

- Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay. (It includes minimizing the time houses are empty)

4. Identification of Abandoned Properties

4.1 As a general rule all staff of the Association in the course of their duties will be alert to any properties that have the appearance of being empty and will either initiate our abandonment procedures or immediately notify the appropriate person to do this on their behalf.

5. Taking Possession of and Abandoned Property

5.1 When the Association has reasonable grounds for believing that a property is

- Unoccupied, and
- The tenant does not intend to occupy it as their home

5.2 Sufficient enquiries/ investigations will be undertaken to ensure that the property has been abandoned.

5.3 If it is established that the property has been abandoned, then we will repossess the property under Section 17 of the Housing (Scotland) Act 2001 by serving notice on the tenant in accordance with Section 18 of the Act. Having served on the tenant a notice and having made ongoing checks to ensure that the property has been abandoned then the Association may at the end of the 4 week notice period serve a further notice which brings the tenancy to an end with immediate effect.

5.4 Before taking repossession of an abandoned property every attempt will be made by staff to ensure that it is unoccupied and that the tenant has no intentions of re-occupying it.

5.5 Once the Association is in legal possession of the property the locks will be changed; an inventory taken of any personal belongings left and photographs taken to verify what has been left, including of any significant damage to the property.

6. Property found in an Abandoned Property

6.1 In certain circumstances, we have a legal duty to store any possessions for a period of up to six months.

6.2 Any personal belongings estimated to have a value to cover the cost of storage plus any rent or other charges that the former tenant owes will be kept in safe custody for six months. We will complete an inventory of the belongings and arrange for their storage.

6.3 However, if the belongings have insufficient value to cover the cost of storage etc the former tenant will be contacted in writing at their last known address and given the opportunity to collect or have their personal belongings delivered, provided they pay all costs due.

6.4 In either situation described if the personal belongings are not claimed they will be disposed of.

7. Tenant's Recourse to Court

7.1 Under Section 19 of the Housing (Scotland) Act 2001, a tenant who is aggrieved by the termination of their tenancy under Section 18(2) may raise legal proceedings within 6 months after the end of tenancy date.

8. Abandonment by a Joint Tenant

8.1 The Association will use provisions contained in the Housing (Scotland) Act 2001 to bring to an end the interest of a joint tenant where the joint tenant appears to have abandoned the joint tenancy.

8.2 When we have established that the joint tenant has abandoned the property i.e. is not occupying the property and does not intend to occupy it as their home, we will bring to an end the interest of the abandoning tenant by serving notice on the tenant.

8.3 If there is no response within the 4 week notice period we will serve another notice bringing the interest in the tenancy to an end with effect from the date specified in the notice. This date cannot be earlier than 8 weeks after the date of service of the notice.

8.4 In serving a notice on the abandoning tenant we will also serve a copy of the notice on each of the other joint tenant(s)

8.5 It should be noted that the second notice does not terminate the tenancy, which will continue in the remaining tenant's name.

8.6 A joint tenant who is aggrieved by the bringing to an end of their interest in the tenancy may raise legal proceedings within 8 weeks after the date of service of the notice.

9. Register of Abandoned Property.

9.1 We will keep a register of all abandoned properties where personal property is found.

9.2 This register will be open for public inspection and details of abandoned properties will remain on the register for a period of 5 years from the date of the repossession.

10. Training and Development

10.1 The training requirements of Management Committee and staff will be regularly assessed to ensure that they have the necessary skills to effectively implement and monitor this Abandonment Policy.

11. Performance Monitoring

11.1 In order to monitor our management of abandoned properties, the Association's Management Committee will receive regular reports on:

- The number of abandoned properties
- Details of any resulting issues which may require either policy or procedural change
- Details (without disclosing personal information) about any tenant/joint tenant who formally initiates a legal right of appeal under section 19 or 21 of the Housing (Scotland) Act 2001.

12. Links with Other Policies

12.1 Pineview Housing Association recognises that the effective operation of this policy is dependent on policies and performance in a variety of service areas. Some of these are:

- Void Management Policy
- Complaints Policy
- Estate Management Policy
- Rent Account Management Policy

13. Risk Management

13.1 Risk can arise from this policy as a result of:

- Abandoned properties causing loss of rental income.
- Abandoned properties having a detrimental effect on the appearance of the area.
- Proper use not being made of the Association's housing stock.
- Applicants who are in need of housing may be deprived of being allocated a property which could suit their housing needs.
- The abandonment process not being followed correctly, leaving the Association liable to litigation on the grounds of wrongful or illegal eviction.

13.2 Given the importance of these risks the effective management of this policy is vital.

14. Equality and Diversity

14.1 Our core values include providing a fair and equal service for all people and this is detailed in our Equality and Diversity Policy. Our approach to managing void properties will reflect that commitment.

15. Complaints / Appeals

15.1 Anyone who is not happy /satisfied with the service they have received as a result of this policy has a right to complain. Please see the Association's Complaints Policy for details on how to do this.

16. Review / Consultation

16.1 This policy will be reviewed every 3 years unless amendment is prompted by a change in legislation or monitoring/reporting reveals that a change in policy is required sooner.

16.2 Procedures and working methods may be altered more frequently where this is needed.

16.3 Policy review will involve consultation with our tenants, our Customer Forum and any other relevant stakeholders.

16.4 We will take account of any views or representations in revising our policy and service provision to assist in the development of effective service delivery.