



ABANDONMENT POLICY

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Craigdale Housing Association can provide this document on request, in different languages and formats, including Braille and audio formats.

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1 Introduction

This policy describes Craigdale Housing Association's approach to dealing with situations where we have good reason to believe that one of our properties has been abandoned by our tenant.

The Abandonment Policy outlines the legal framework that should be followed by staff members when dealing with abandoned properties. Whilst the Association recognises that reasons for abandonment are different and by identifying abandoned properties swiftly, we will take prompt action to take the appropriate steps to have the property re-let.

2 Aims and Objectives

The overall aim of this policy is to ensure that Craigdale Housing Association is managing its housing stock effectively and efficiently.

It is essential that any properties which are not being used by residents as their main or principal home are identified, and the appropriate steps are taken to have the unoccupied property repossessed and re-let to meet the needs of our housing applicants.

Craigdale Housing Association will:

- Determine quickly when a property is abandoned
- Make the best use of our housing stock by ensuring empty abandoned properties are able to be re-let quickly and minimise the time a property is unoccupied
- Reduce estate management problems arising from an unoccupied property
- Minimise the potential void rent loss
- Minimise costs to the Association e.g. repairs, storage of belongings etc.
- Protect the rights of tenants and the Association when repossessing a property.

3 The Legal and Regulatory Framework

The Housing (Scotland) Act 2001 empowers the landlord of a Scottish Secure Tenancy to recover and abandoned property without the need for court proceedings through the issue of relevant notices, served on the tenant at the property. All aspects of the Abandonment Policy and procedures adhere to equality, housing and other relevant legislation:

- Housing (Scotland) Act 2001 – Sections 17 - 21
- Housing (Scotland) Act 2014
- Scottish Secure Tenancy (Abandoned Property) Order 2002
- Data Protection Act 2018 and the UK General Data Protection Regulation
- Equality Act 2010
- Human Rights Act 1998
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- The Adults with Incapacity (Scotland) Act 2000
- Scottish Secure Tenancy Agreement

Our Policy also complies with the Scottish Social Housing Charter as follows:

- Outcome 1: Equalities
Social landlords perform all aspects of their housing services so that: “every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services.”
- 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.”
- 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.”

4 Abandonment Notices for Single Tenancy

Where Craigdale Housing Association has reasonable grounds for believing that a property is unoccupied and that the tenant does not intend to occupy it as their main or principal home, a Housing Officer will serve an Abandonment Notice against the tenant. This notice must:

- State that Craigdale Housing Association has reason to believe the property is unoccupied and the tenant does not intend to occupy it as their main or principal home
- Require the tenant to inform Craigdale Housing Association in writing within 28 days of the service of the notice if the tenant intends to occupy the property as their main or principal home
- Inform the tenant that if it appears to Craigdale Housing Association at the end of the 28 days that the tenant does not intend to occupy the property, the tenancy will be ended with immediate effect by service of a second notice.

The legislation does not specify what inquiries should be carried out to satisfy that there are 'reasonable grounds.' However, before an abandonment notice is served, it is expected that checks such as visiting the property, checking with neighbours, police and Social Work would be carried out.

Security Measures

During the period when the first abandonment notice has been served, and the second abandonment notice is yet to be served, Craigdale Housing Association may enter the property at any time to secure the property and any fixtures, fittings and furniture against vandalism. This includes making forced entry to the property.

Contact from the Tenant

Where the tenant contacts the Association within the 28 days and confirms in writing of their intention to occupy the property as their home, the abandonment procedure will be cancelled. A home visit should be arranged to confirm the tenant is living in the property.

Termination of the Tenancy

Where a tenant fails to respond to the Abandonment Notice, the tenancy can be ended without court action by service of a Second Abandonment Notice not sooner than 28 days after the first Abandonment Notice provided:

- A proper Abandonment Notice has been served
- Staff have made reasonable enquiries to be satisfied that the property has been unoccupied and that the tenant does not intend to occupy it as their home.

Enquiries should be ongoing from the service of the First Abandonment Notice to the service of the Second Abandonment Notice that terminates the tenancy. Records of all inquiries must be recorded as this is necessary to ensure the Association has acted reasonably in accordance with legal

provisions. This information will be important if a tenant raises a formal appeal or raises an action of alleged unlawful termination of tenancy.

Following the service of the Second Abandonment Notice (which terminates the tenancy) the property will be processed for re-let in accordance with our Allocation and Void Policy procedures.

Appeals by the Tenant

Any tenant aggrieved by the termination of the tenancy under the Abandonment Procedures has the legal right to appeal to the Sheriff Court within 6 months from the date the tenancy was ended. The court can grant a declaratory that the notice is of no effect (where the property has not been re-let) or direct the Association to make other suitable accommodation available (where the property has been re-let). Suitable alternative accommodation is defined by the Housing (Scotland) Act 2001, Schedule 2, Part 2, and is essentially accommodation that is 'like for like' with the previous accommodation.

This will apply whenever the Association:

- Has not served a valid Abandonment Notice
- Did not have reasonable grounds for finding the property to be unoccupied, or the tenant did not intend to occupy it as their home, or
- Acted in error in finding that the tenant did not intend to occupy the property as their home and the tenant had reasonable cause by reason of illness or otherwise for failing to notify the Association of their intention to occupy.

The court may also make other orders where a tenant has successfully challenged an abandonment order, for example, by instructing the Association to forego rent due for the period of apparent abandonment.

If keys are returned to Craigdale Housing Association with no termination notice, then the Abandonment Procedure will be followed.

5 Abandonment Notices for Joint Tenant's

Section 20 of the Housing (Scotland) Act 2001 gives the Association the right to end a joint tenant's interest in a property where we have reasonable grounds for believing the joint tenant is not occupying the property and does not intend to occupy it as their home.

In the case of joint tenants who have left the property, a separate notice must be served on all tenants. The notice must:

- State that Craigdale Housing Association has reason to believe that the abandoning tenant is not occupying the property and does not intend to occupy it as their home

- Require the abandoning tenant to inform Craigdale Housing Association within 28 days of the service of the notice if they intend to occupy the property as their home
- informing the abandoning tenant that, if it appears to Craigdale Housing Association at the end of that period that the abandoning tenant does not intend so to occupy the house, the abandoning tenant's interest in the tenancy will be ended by the service of an appropriate notice.

The Association must ensure that they have:

- served on the abandoning tenant a notice complying with the above, and
- made such inquiries as may be necessary to satisfy the landlord that the abandoning tenant is not occupying the property and does not intend to occupy it as the tenant's home, and

At the end of the 28-day period Craigdale Housing Association is satisfied that the joint tenant does not intend to occupy the property as his/her home, the Association may serve a further notice. This second notice will terminate that joint tenant's interest in the tenancy in not less than 8 weeks after the date of service on the notice. That second notice will not however terminate the tenancy which will continue. That person has a right to make application to the sheriff if we do this.

Contact from the Joint Tenant

Where the abandoning tenant contacts the Association within the 28 days and confirms in writing of their intention to occupy the property as their home, the abandonment procedure will be cancelled.

The abandoning tenant will be served a second notice advising of the date their interest in the tenancy will come to an end, where the abandoning tenant contacts the Association in writing prior to the date within the second notice, the abandonment procedure on the joint tenancy will be cancelled.

Terminating the Joint Tenancy

The abandoning tenant's interest in the tenancy will be ended not earlier than 8 weeks after the date of serving the second abandonment notice. This date must be specified within the second abandonment notice.

A joint tenant may, at any time, end their interest in the tenancy of the house by giving 4 weeks' written notice to us and to the other joint tenant. That notice will not, however, terminate the tenancy which will continue.

Appeals by the Abandoning Tenant

A joint tenant under a Scottish Secure Tenancy who is aggrieved by the termination of their interest in the tenancy under the abandonment procedures

has the legal right to appeal to the Sheriff Court within 8 weeks from the date their interest in the tenancy was ended.

The court can grant a declaratory that the notice is of no effect (where the property has not been re-let) or direct the Association to make other suitable accommodation available (where the property has been re-let). Suitable alternative accommodation is defined by the Housing (Scotland) Act 2001, Schedule 2, Part 2, and is essentially accommodation that is 'like for like' with the previous accommodation.

This will apply whenever the Association:

- Has not served a valid Abandonment Notice
- Did not have reasonable grounds for finding the property to be unoccupied, or the tenant did not intend to occupy it as their home, or
- Acted in error in finding that the tenant did not intend to occupy the property as their home and the tenant had reasonable cause by reason of illness or otherwise for failing to notify the Association of their intention to occupy.

6 Property Found in Abandoned Tenancies

The Scottish Secure Tenancies (Abandoned Property) Order 2002 specifies the procedures that must be followed whenever property is found within abandoned tenancies.

Where property is found in an unoccupied property in which abandonment procedures have started, Craigdale Housing Association must immediately serve a notice on the tenant, and the notice must state that:

- The property is available for delivery to the tenant or the tenant's agent at a place specified in the notice on payment of any sum payable relating to the costs of storage is made, and
- If the property is not collected by the tenant from the specified place on or before the date specified in the notice (being a date not fewer than 28 days from the date of service of the notice and not earlier than the date on which the landlord repossesses the house) it may be disposed of in accordance with the Order.
- The notice must be served by posting it to the tenant in a recorded delivery letter addressed to the tenant at the tenant's last known address, or by leaving the notice for the tenant at that address.

Disposal of Furniture and Belongings

At the time of the abandonments being served, two members of staff must be in attendance, and an inventory must be recorded of the items left, including photographs of each room whether there are belongings remaining. The Association are obliged to store anything left for a period of 6 months from the

date the property was repossessed unless, in the Associations opinion, the value of the property left is less than the costs for storage for this length of time.

After the 6 months has expired, the Association may sell the property to cover storage costs and use any balance towards rent arrears/rechargeable repairs, where applicable.

The Association can dispose of items that are not of sufficient value to store for a period of 6 months as it sees fit.

7 Performance Monitoring

An annual report to the Board in the form of the Annual Return on the Charter will provide the following information for the relevant reporting year:

- Number of properties abandoned during the year
- Percentage of new tenancies sustained for more than a year

8 Complaints

We have a separate complaints policy and procedure. Leaflets and copies of the complaint's procedure are available from the Association's office and on our website. We also provide information on how our customers can make a complaint to the SPSO, Bridgeside House, 99 McDonald Road, Edinburgh, EH7 4NS, telephone 0800 377 7300 or 0131 225 5300.

9 Equalities and Human Rights

We are committed to the principles of equality and diversity, including working towards a Board and staff team that is representative of the communities it serves in respect of Protecting Characteristics.

10 Freedom of Information (FOI)

The Association is subject to FOI and all enquiries with respect to Void Management Policy will be handled strictly in line with FOI and confidentiality policies.

11 General Data Protection Regulations (GDPR)

The organisation will treat personal data in line with our obligations under the current GDPR regulations and our own policy.

12 Review of Policy

This policy will be reviewed at least every 3 years or in light of changes to legislation.