



## **Abandoned Properties, Absent Tenants and Disposal of Goods Policy**



## 1. INTRODUCTION

1.1 The Association's Abandoned Properties, Absent Tenants and Disposal of Goods Policy sets out how officers will deal with all cases of abandonment, long term absences and disposal of goods.

1.2. Absence from the property, however long-standing, will not bring the tenancy to an end. That can only be achieved by one of the ways recognised by law, e.g. Notice to Quit or surrender.

1.3. Security of tenure may be placed in jeopardy by long-term absences. Tenants who hold secure, assured or assured short hold tenancies retain security of tenure only as long as the tenant (or one of the joint tenants) occupies the property as their only or main home. Once security of tenure has been lost, all that remains is a contractual tenancy, which the Association can end by serving Notice to Quit.

1.4. Where a property is proven to have been abandoned and there are goods left in the property the Association has certain duties under law towards the owner of any goods it takes into its possession or control. The Association becomes what is known as a 'bailee' and the owner of the goods the 'bailor'. The Association is liable to the bailor for any loss or damage to the goods and this duty of care lasts for six years.

1.5. The Torts (Interference with Goods) Act 1977 gives the Association certain rights to sell such goods (but not dispose of them). The correct legal procedure must be followed, and the Association must account to the bailor for the proceeds of the sale.

1.6. Failure to dispose of any such goods in accordance with the law could leave the Association open to substantial claims for damages by the ex-tenant

## 2. POLICY STATEMENT

### 2.1 *Aims and Objectives*

The Association aims to;

- Achieve sustainable tenancies and the creation of stable and balanced communities by tackling issues of abandoned properties
- Treat tenants in a fair and non discriminatory way in accordance with the Association's Equality and Diversity Strategy
- Be effective, understandable and accountable
- Ensure Cosmopolitan Housing Association stock is used effectively and for those in housing need



- Minimise the number of properties that are abandoned by tenants and the chances of unauthorised occupation of empty properties by ensuring that abandoned properties are repossessed as quickly as possible
- Ensure all enquiries and requests regarding long term absences are dealt with consistently
- Protect the tenancy rights and any goods/belongings of absent tenants during any legal periods of absence from their properties
- Dispose of any goods left by a tenant at the end of their tenancy as quickly as possible, whilst complying with legal responsibilities
- Reduce storage costs and/or rent and void loss

## **2.2 Legislative and Regulatory Framework**

The Association is aware of its legislative and regulatory obligations and will seek to deliver its services in accordance with these at all times. These will form the minimum requirements of the service, which will seek to exceed these and comply with good practice wherever possible.

*Relevant legislation is as follows:*

- Housing Act 1988
- Housing Act 1985
- Housing Act 1996
- Torts (Interference with Goods) Act 1977
- Protection from Eviction Act 1977
- Housing Benefit Regulations
- Tenant Services Authority Regulatory Standards (Formerly the Regulatory Code of the Housing Corporation)

*Relevant internal policy and practice is as follows:*

- Allocations Policy
- Equality and Diversity Strategy
- BME Action Plan
- Supported Housing Policy
- Repairs Policy
- Vulnerable Tenants Policy
- Tenancy Audits & associated procedures
- Concern cards & associated procedures
- Starter Tenancy Policy
- Evictions Policy



- Service Improvement Plan

### **2.3 Scope of the Policy**

This policy applies when processing all cases of abandonment, tenant absence and disposal of any goods from abandoned tenancies for all of the Association's social housing rented properties.

## **3. IMPLEMENTATION**

### **3.1 Abandoned Tenancies**

Association staff, whilst carrying out their duties, or on occasion neighbours or the public may identify and report an abandoned property. The Housing Acts of 1985 and 1998 require that to be either a secure or assured tenant the property must be used by the tenant (or at least one of joint tenants) as his or her principal home. It should be noted that absence of a tenant does not itself constitute failure to use as the principal home. The concept has more to do with the tenant's intentions and how these are demonstrated. However, it is clearly impossible to have two such tenancies and use both as the principal home. The procedure, which accompanies this Policy, provides an extensive list of standard checks and processes that must be completed by Association staff before regaining possession of the abandoned property through possession proceedings

The following processes/guidelines will be carried out/adhered to as part of the implementation of this policy;

- The Association will carry out investigations to determine whether the property has or has not been abandoned.
- Every effort will be made to contact the absent tenant to see if they have any intention of returning and warn them of the consequences of not doing so.
- The Association will show regard to the welfare, safety and legal rights of the tenant. If the tenant is known or suspected of being vulnerable the Association will contact the relevant agencies or next of kin/carers prior to commencing possession proceedings.
- If after relevant checks have been made the Association is certain that the property is no longer being used as the only and principal home of the tenant, a notice to quit will be served in order to terminate the tenancy.
- The Association will act swiftly to ensure all abandoned properties are secured correctly
- Where there is a clear case of abandonment or where the property is clearly no longer being used as the tenants main or principal home, the Association will seek possession through the courts.



### 3.2 Absent Tenants

This usually occurs when a tenant decides to take an extended holiday or period away from his/her home. Usually tenants do advise the Association of such absences and arrangements can be made, however there are occasions when this does not happen and the property may be perceived as being abandoned, as the tenant cannot be traced. The procedures, which accompany this policy, provide a list of checks and processes that must be completed by, Association staff, before attempting to regain possession of the property.

The following processes/guidelines will be carried out/adhered to as part of the implementation of this policy;

- The Association recognises that tenants do have the right to go away for long periods and still retain the security of their tenure as long as the property is and remains their main or principal home.
- Some examples of generally accepted valid reasons are; Short prison sentences, Staying in hospital, Staying with family and friends to receive or provide support and care, Having fixed term employment elsewhere, Going on an extended holiday visit.
- Each case and individual situation will be fully assessed before the Association will grant extended leave of absence.
- The Association will usually agree to periods of absence of up to 12 months at a time however, this depends on the reasons for absence.
- Absence beyond the agreed time limit can lead to possession proceedings being taken
- Requests for extensions of agreed absence period must be agreed in writing. If the extra time requested is excessive or there is suspicion that the tenant has no intention to return, the Association will advise the tenant/s to relinquish their tenancy. If they refuse, the Association will consider possession proceedings.
- A tenant may be absent from the property for over 12 months and have the resources to continue rent payments whilst they are away. This long term absence of the tenant is not an efficient use of housing stock. In these cases the Association should try to persuade the tenant to give up their tenancy
- Where a tenant requests a house sitter or caretaker to be present in the property whilst they are away they must request this in writing. If the Association is satisfied with the reason for absence, arrangements for paying rent and duration of absence it may give permission for the tenant to take in a house sitter or caretaker. This may not be appropriate in all cases depending on the property or scheme. Tenants with Starter Tenancies are not permitted to take in a house sitter or caretaker and the Association does not allow the tenant/s to sublet the whole of their property. Where permission is granted to allow a house sitter or caretaker the tenant is still responsible for payments of rent and any payments made by the flat sitter will be accepted on behalf of the tenant.
- If the Tenant is receiving Housing Benefit whilst they are away from their home, it is their responsibility to ensure that rent is paid if/when Housing Benefit may stop.



- The Association will encourage tenants to give up their tenancy where no definite arrangements for paying the rent can be made. This will include those who are unable to pay the rent or who are not entitled to housing benefit to cover the period of absence. In these circumstances, the Association may need to liaise with the probation service, social worker or health worker acting on behalf of the tenant. If the tenant refuses to give up their tenancy and rent arrears do accrue then possession proceedings will be initiated.
- If tenancy conditions are breached, this includes (but is not limited to) rent arrears and acts of anti social behaviour caused by the tenant or their representatives then the Association will take action to end the tenancy.

### **3.3 Disposal of Goods**

Any goods left behind by a tenant are still the property of the tenant. They do not become the property of the Association. In law, the Association becomes an involuntary “bailee” of such goods and it cannot simply dispose of them. The law does not provide clear guidelines. However the Association is covered by the general provisions of Torts (Interference with Goods Act 1977). This requires reasonable efforts be made by the Association to trace the tenant/s but, if these fail, the possessions may be sold or destroyed.

The following processes/guidelines will be carried out/adhered to as part of the implementation of this policy;

- The Association will, at all times, follow the guidelines set down in the procedures that accompany this policy in relation to the disposal of goods.
- Where rubbish or goods worth less than £100 are left in the property, The Association will assume that they have been abandoned and will dispose of them as part of the normal void process.
- Goods that might reasonably be thought of as having sentimental value (e.g. family photographs) will be retained and dealt with in accordance to procedure.
- Where there is reason to believe that any goods are owned by a third party (e.g. goods on hire purchase), every effort should be made to trace the rightful owner and notify them that the goods are ready for collection.
- If the Association considers that they goods may not have been abandoned, the value of the goods will be assessed and weighed against the cost of applying to the courts for an order for sale of disposal and the risk of any proceedings being brought by the former tenant. The Association will comply with any order made by the court relating to the disposal of a former tenants Possessions.
- When a tenant cannot be traced, important documents such as passports or benefit books should be returned to the issuing office.



- Any post left in the property should be redirected to the sender.
- Every effort will be made to dispose of any goods within the shortest amount of time available to ensure the property can be re let as quickly as possible.

#### **4. RESPONSIBILITY**

- 4.1. Overall responsibility for the implementation of this policy lies with the Operations Director.
- 4.2. The Tenancy Management Co-ordinator is responsible for the day-to-day management and implementation of the abandoned tenancies, absent tenants and disposal of goods policy, for the application of the policy and procedures, monitoring and reviewing performance managing the budget, and making recommendations for improvement.
- 4.3. All staff have a responsibility for the delivery of the policy relating to abandoned tenancies, absent tenants and disposal of goods policy.

#### **5. CONSULTATION**

- 5.1. The Association will consult on an annual basis with the staff, outside agencies and benchmarking groups to promote continuous improvement and develop good practice in this policy
- 5.2. Prior to making any changes to this policy the Association will consent and consider the view of:
  - All relevant staff
  - Senior Management Team
  - The Tenants' Forum
  - Board of Management
  - Residents, Tenants Groups, individual interested tenants
  - All relevant outside agencies

#### **6. REVIEW**

- 6.1. The Association will formally review its Allocations Policy on a 3 yearly basis, unless changes in legislation or regulation require an earlier review.
- 6.2. Findings and recommendations will be presented to the Association's Board of Management after the views of the Forum have been considered. A review team will carry out each review.
- 6.3. Progress reports will be made to the Board of Management and Forum, to enable monitoring against strategic aims and objectives and agreed performance indicators. Performance data will be included in the annual report to tenant



## 7. TRAINING

7.1. The Association will provide all staff responsible for implementing this policy with comprehensive training.

7.2. Training will be given to:

- New staff
- Existing staff on an annual basis as a refresher/update as required
- All relevant staff after change to policy/legislation
- To relevant outside agencies
- Any other times as identified by the Operations Director, Team Leaders or Group Policy and Performance Manager

## 8. POLICY REVIEW SUMMARY

Policy Title	Abandoned Tenancies, Absent Tenants and Disposal of Goods Policy
Dated Created	April 2007
Person Responsible	Operations Director
Version	2
Date last amended	9 <sup>th</sup> June 2010
Authorised by	Board of Management
Review Period	Every 3 Years
Review Committee	Board of Management
Date of last review	N/A
Date of next review	June 2013