



Item B8

Key Housing

# Abandonment Policy

First approved: February 2006  
(Revised: 01/25)

## **KEY HOUSING ASSOCIATION**

### **ABANDONMENT POLICY**

#### **Overall Policy Statement**

The Housing (Scotland) Act 2001, Part 2, Chapter 1, Section 17 advises that 'Abandoned tenancies applies where a landlord under a Scottish secure tenancy has reasonable grounds for believing that – (a) the house is unoccupied, and (b) the tenant does not intend to occupy it as the tenant's home.' The Housing (Scotland) Act 2001 allows Registered Social Landlords to recover possession of a tenancy on these grounds, without raising court action.

The Association wants to ensure the use of its properties is maximised, in terms of appropriate occupation and continuation of rental income. Where it appears that a tenant has left a property and the Association has reason to believe that they will not be returning, the abandonment procedure can be followed. By identifying these situations quickly and following the procedure accurately, the Association can ensure properties are re-let swiftly. This procedure is applicable to both single and joint tenancies and guidance is provided for both Key Owned and leased properties.

#### **Background**

Tenants of Key Housing Association will have a Scottish Secure Tenancy Agreement (SST) or Short Scottish Secure Tenancy Agreement (SSST) which is a legal agreement between the association and the tenant and details the rights of the tenant and the associations duties as a landlord.

Following the signing of a tenancy agreement, the tenant must live in the home and use it as their principal dwelling. The tenant must inform the association of who is living in the home and any changes to people living there.

The association, in preparing this policy and the related procedures has given consideration to and sought compliance with the following: Scottish Social Housing Charter, as defined by The Scottish Housing Regulator – the regulatory body for housing associations.

#### **Legal framework:**

- The Housing (Scotland) Act 2001
- The Housing (Scotland) Act 2014

- Scottish Secure Tenancy (Abandoned Property) Order 2002

At Key Housing we are committed to:

- Providing good quality housing
- Delivering a high standard of housing service
- Engaging with our tenants on all aspects of their housing service
- Offering a range of personalised housing solutions
- Offering expertise in adapting your home to suit your needs
- Working closely with organisations which support our tenants, particularly Key and Community Lifestyles.

## **Procedure**

If the association suspects that there is no one living in a property, then notice will be sent to the tenant's last known address informing them of the proposed action to repossess the house. In most cases this will be their Key property address.

Prior to notification being sent, the association will take all reasonable steps to find out whether the tenant intends to return. Attempts will be made to ensure that the tenant has not gone on holiday, staying with relatives because of support needs or is in hospital. All actions taken to confirm that the tenant has abandoned the property, and is not living elsewhere on a temporary basis, will be recorded (appendix 5). Evidence of these actions may be required if the tenant claims that the property has not been abandoned.

Examples of action taken to investigate include

- Visiting the property on multiple occasions, both announced and unannounced on different dates and times
- Liaising with support staff, if involved
- Contacting next of kin, if one has been provided
- Attempting contact with the tenant by phone, in writing, by email
- Contacting local authority social work and homelessness departments
- Check rent account for any missed payments or receipt of benefits
- Check if neighbours have had any contact with the tenant

In addition, the management committee will be informed of the proposed action, and it will be confirmed that the association has carried out the necessary investigations. On completing the investigation, the association will issue a 28 day notice, confirming

to the tenant that they believe the property to be abandoned (appendix 1). A certificate of serving the notice must be signed by 2 attending officers (Appendix 10). The tenant will be asked to confirm whether they intend to occupy the property as their principal home. If the tenant fails to confirm that they are occupying the house, then the Association will serve a second notice to advise the tenant that it intends to change the locks (appendix 2). A certificate of serving the notice must be signed by 2 attending officers. This meets the legal requirements of the Housing (Scotland) Act 2001. A final notice confirming end of tenancy, with details of any items left in the property will be sent to the address held on file (appendix 7)

Any contact received from the tenant during the initial 28 day period, should be recorded and intention to remain in the property must be received in writing from the tenant. This will be followed up by a property inspection.

If no contact is received during the initial 28 day period and a second abandonment notice is served, the association can then repossess the property and change the locks. On entering the house, an inventory will be made of any property which is still in the house (appendix 6). This will be sent to any address which the association can identify for the tenant. The tenant will be given 28 days notice to remove the property. Under the Scottish Secure Tenancies (Abandoned Property) Order 2002, any property left must be kept for at least 28 Calendar Days. Thereafter the association will be required to store the furniture for up to 6 months. However, if the value of any furnishings is less than the costs of storage, it may be disposed of prior to that.

## **Joint Tenancies**

There are situations where within a joint tenancy, a relationship may break down and one partner who holds a joint tenancy will leave without keeping contact with the remaining joint tenant. In this event it is not possible to simply terminate the joint tenant's interest on the request of the remaining tenant. Section 20 of the Housing (Scotland) Act 2001 gives a provision for service of an abandonment notice on the unoccupied half of the tenancy. This operates similarly to the sole tenant procedure and a first notice is served (appendix 3). Like the sole tenant procedure, a second notice follows the first after 28 days (appendix 4). There is still an obligation to carry out checks to ensure that the Association has fully investigated the joint tenants whereabouts. These should be as extensive as practical given the information held about the tenant but should not entirely rely on information provided by the remaining tenant. The important difference to a normal abandonment procedure is that the second notice gives notice that the tenancy will end on a date no earlier than eight weeks after service of that (second) notice. At the end the joint tenant continues to

remain in the property. The tenancy does not end but the records are updated to a sole tenancy and removes the joint tenant from any affiliation with that tenancy. Both individuals will be advised in writing of this (appendix 8&9).

### **Leased Properties**

All of the above relates to tenants who reside in properties which are Key-owned. There are some Key tenants who reside in properties which are leased by Key from other Housing Associations or Private Landlords. These tenants have a Short Scottish Secure Tenancy Agreement (SSST) and in regard to Abandonment, tenants rights remain the same and the same procedure will be followed.

### **Appeal**

If the tenant subsequently challenges the association, the association may have to commence legal action to confirm the reasons for repossessing the house. Any tenant who does not agree with the abandonment procedure on their property, has the legal right to appeal the decision within 6 months from the date the tenancy was ended through the Sheriff Court.

Through this process, the Sheriff Court can grant a notice that states the abandonment is of 'no effect' (where the property has not been re-let) or request that the Association offer alternative accommodation (where the property has been relet). Suitable accommodation must be equivalent to the previous accommodation, as determined by the Housing (Scotland) Act 2001.

The appeal can be successful when the following apply:

- The association did not serve an appropriate abandonment notice
- The association did not carry out robust investigation into the use of the property
- The association did not serve a second abandonment notice
- The association did not have reasonable grounds for finding the property uninhabited, e.g. the tenant did not intend to be occupying the property at that time
- The association acted in error and the tenant had reasonable grounds for not occupying the property and for failing to notify the association e.g. illness, support needs or extenuating circumstances

If Keys are returned to the organisation with no formal end of tenancy notice, the abandonment procedure will be followed.

## **Policy Review**

This policy will be reviewed on a 3 yearly basis or earlier if legislation changes.

## **Equal Opportunities Statement**

Key Housing Association is committed to encouraging diversity and eliminating discrimination by providing equality of opportunity for all. Within Key there will be a consistent approach in promoting equality and diversity across all areas of service delivery, including Housing, in accordance with the Equality Act 2010. Tackling inequality is not something new. Key has a long-standing track record and remains committed to tackling discrimination and promoting equality and to illustrate its compliance with legislation and support the government's policy aim of promoting a culture of dignity and respect for all and eliminating discrimination. We are committed to ensuring that no tenant or housing applicant, service user or member receives less favourable treatment on the grounds of sex (including gender re-assignment), marital or civil partnership status, pregnancy or maternity, religion or belief, sexual orientation, age, disability, colour, race, nationality, or ethnic or national origins. Key seeks to ensure that the policies and procedures adopted in relation service provision (housing and support) allow people to be afforded equal opportunity in the way they are treated by Key.

## **Data Protection**

Key Housing Association is committed to high standards of data protection and compliance with the requirements of the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018. Together, these regulations place a greater responsibility on us to ensure that your personal data is managed lawfully, fairly and securely. If you require more information, please request a copy of our Data Protection Policy.

## Appendix 1- First Abandonment Notice



Ref:

Name

Address

Town

Post Code

Date

### **Abandonment of a Scottish Secure Tenancy/Scottish Short Secure Tenancy (delete as appropriate)**

**\*insert address\***

Dear \*insert name\*

After following our investigation procedure, as detailed in our Abandonment Policy, Key Housing Association as the landlord of the above property have reason to believe that you are not occupying this property as your main or principal home.

Key Housing Association are therefore serving notice on you under Section 18 (Repossession) of the Housing (Scotland) Act 2001.

You are required to inform us in writing within 28 days of this notice if you intend or do not intend to occupy the property as your main or principal home.

If we do not receive contact from you within the 28 day period, it will be assumed you do not wish to occupy the property, we will then serve a further notice to the address to advise that Key Housing Association will take repossession of the property. Your tenancy will therefore end on \*insert date\*.

If you do not intend to occupy the property, you must remove all personal belongings within the 28 day period. Failure to do so will result in these items being disposed of or put into storage. We will only store your property if the value is greater than that of 6 months in a storage facility/or any debt due to you by us.

Yours Sincerely

\*insert name\*

\*insert designation\*

## Appendix 2- Second Abandonment Notice



Ref:

Name

Address

Town

Post Code

Date

### **Section 18 of the Housing (Scotland) Act 2001: Notice of Termination of Secure Tenancy**

**\*insert address\***

Dear \*insert name\*

On \*insert date\*, Key Housing Association served a notice advising you of our reason to believe you are not occupying the above property as your main or principal home. We requested that you inform us within 28 days of your intentions to occupy the property.

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

A final notice will be sent to the address we hold on file for you within 28 days to advise of our action in respect to any personal items left within the property.

For more information, you can request a copy of our Abandonment Policy by calling us on 0141 342 1810, or it can be found on our website [www.key.org.uk](http://www.key.org.uk).

Yours Sincerely

\*insert name\*

\*insert designation\*



### Appendix 3- Joint Tenancy First Abandonment Notice



Ref:

Name of joint tenant

Address

Town

Post Code

Date

#### **Abandonment of a Joint Scottish Secure Tenancy/Scottish Short Secure Tenancy (delete as appropriate)**

**\*insert address\***

Dear \*insert name\*

After following our investigation procedure, as detailed in our Abandonment Policy, Key Housing Association as the landlord of the above property have reason to believe that you are not occupying this property as your main or principal home.

Key Housing Association are therefore serving notice on you under Section 18 (Repossession) of the Housing (Scotland) Act 2001.

You are required to inform us in writing within 28 days of this notice if you intend or do not intend to occupy the property as your main or principal home.

If we do not receive contact from you within the 28 day period, it will be assumed you do not wish to occupy the property, we will then serve a further notice to the address 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

\*insert name\*

\*insert designation\*

## Appendix 4- Joint Tenancy Second Abandonment Notice



Ref:

Name of joint tenant

Address

Town

Post Code

Date

### **Section 18 of the Housing (Scotland) Act 2001: Notice of Termination of Secure Tenancy**

**\*insert address\***

Dear \*insert name\*

On \*insert date\*, Key Housing Association served a notice advising you of our reason to believe you are not occupying the above property as your main or principal home. We requested that you inform us within 28 days of your intentions to occupy the property.

Key Housing Association are now satisfied that you do not intend to occupy the property as your main or principal home. We therefore give you notice that your interest in the tenancy will cease on \*insert date\* (8 weeks), this will be confirmed with a final notice sent to the address we hold on file for you.

For more information, you can request a copy of our Abandonment Policy by calling us on 0141 342 1810, or it can be found on our website [www.key.org.uk](http://www.key.org.uk).

Yours Sincerely

\*insert name\*

\*insert designation\*

## Appendix 5- Abandonment Checklist



Name of Tenant-

Name of Joint Tenant-

Address-

Tenancy Start date-

Housing Officer-

Investigation Procedure	Date/s of Completion	Signed	Comments
Phone call to tenant (multiple attempts)			
Visit to property (multiple attempts)			
Written communication with tenant			
Phone call to next of kin			
Liaison with support staff (if applicable)			
Contact with local authority social work/homeless			
Check rent account			
Check in with neighbours			
Contact with local hospital			

## Appendix 5- Abandonment Report & Inventory



Name of Tenant-

Name of Joint Tenant-

Address-

Tenancy Start date-

Housing Officer-

Abandonment Procedure	Date of Completion	Signed	Comments
Investigation procedure commenced			
Investigation procedure completed			
Service of First Abandonment Notice			
Service of Second Abandonment Notice			
Any contact received from tenant/joint tenant			
Reason for suspected abandonment			

<b>Final meter readings collected</b>			
<b>Lock change completed</b>			
<b>Service of Final Abandonment letter</b>			
<b>Inventory completed (including photos)</b>			
<b>Are personal items disposed of/to be put in storage?</b>			
<b>Storage facility details</b>			
<b>Rent loss accrued details</b>			
<b>Details of recharges</b>			

Inventory	Items	Dispose/Storage	Estimated value
Living room			
Bedroom 1			
Bedroom 2			
Bedroom 3			
Kitchen			
Bathroom			
Other			

Total estimated value-

Signed-

Date-

## Appendix 7- Final Abandonment Letter



Ref:

Name of joint tenant

Address

Town

Post Code

Date

### Termination of Scottish Secure Tenancy

**\*insert address\***

Dear \*insert name\*

We are writing to you as confirmation of the repossession of property at above address.

We wrote to you on \*insert date of 1<sup>st</sup> aband notice\* and then 28 days later on \*insert date of 2<sup>nd</sup> aband notice\*. As per our abandonment policy, your tenancy has now ended on \*insert date\* and the locks have been changed at the property.

The outstanding rent on your account is \*insert amount\* and the rechargeable repairs detailed in attached document are for the sum of \*insert amount\*, therefore the total outstanding balance is \*insert amount\*, payable to \*insert bank details\*.

We have also attached a copy of the inventory taken on the date of repossession; these items have now been disposed of/put into storage (delete as appropriate). Storage details- \*insert address and contact information\*. These items must be collected within 6 months of the end of tenancy date, or they will be disposed of. OR There were no items left within the property of any significant value. (delete as appropriate)

Our records have now been updated, please contact us should you have any further questions on 0141 342 1810.

Yours Sincerely

\*insert name\*

\*insert designation\*

## Appendix 8- Joint Tenancy Final Abandonment letter



Ref:

Name of joint tenant

Address

Town

Post Code

Date

Dear \*insert name\*

Confirmation of End of Interest in Tenancy at \*insert address\*.

We are writing to you to confirm that Key Housing Association has now ended your interest in the above tenancy as of \*insert date of second aband notice\* plus 8 weeks.

Our records have now been updated. Please contact us if you have any further questions on 0141 342 1810.

Yours Sincerely

\*insert name\*

\*insert designation\*



## Appendix 9- Joint Tenancy sole occupancy confirmation



Ref:

Name of joint tenant

Address

Town

Post Code

Date

Dear \*insert name\*

Confirmation of Sole Tenancy

We are writing to you to confirm that following the completion of our Abandonment procedure, you are now the sole tenant at \*insert address\* as of \*insert date of second aband notice\*.

This means you are now solely responsible for paying your rent, currently your rent account has a balance of \*insert amount\*.

Our records have now been updated, please contact us should you have any further questions on 0141 342 1810.

Yours Sincerely

\*insert name\*

\*insert designation\*

**Appendix 10- Abandonment certificate of service**



Name of tenant-

Name of joint tenant (if applicable)-

Address-

**Service of Abandonment First Notice/Service of Abandonment Second Notice  
(delete as appropriate)**

**I confirm that the above abandonment notice was served at \*insert address\* on  
\*insert date\* by two attending officers.**

Housing Officer Name-

Signature

Date

Witnessing Officer-

Signature

Date