****

**RUCHAZIE HOUSING ASSOCIATION**

**ABANDONED HOUSE POLICY**

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| --- | --- |
| **Date** | **October 2016** |
| **Approved by Management Committee** | **May 2021** |
| **Review Date** | **May 2021** |
| **Next Review Date** | **May 2026** |

1. **AIMS AND OBJECTIVES**
   1. The Association’s tenancy agreement provides information on the steps that should be taken by individual tenants to end their tenancy agreement. However, should the outgoing tenant fail to provide this, then the property may be deemed to be abandoned. The Housing (Scotland) Act 2001 makes provision for landlords through a Scottish Secure Tenancy to take possession of a house that has been abandoned.
   2. The aim of this policy is to ensure that Ruchazie Housing Association’s properties are occupied by legitimate tenants and that steps are taken as quickly as possible to recover possession of properties which have been abandoned and are empty.
   3. This policy details how abandonment should be dealt with in accordance with the Housing (Scotland) Act 2001. Details of all abandonment notices served will be recorded by the Association.
   4. This policy provides the association’s staff with clear and consistent procedures to be used when dealing with abandoned properties. An abandoned property represents lost revenue, continuing maintenance costs and a risk of vandalism.
   5. The challenge is how to balance efficient management of the housing stock with the requirement to follow the letter of the law. A property may appear to be empty and ‘abandoned’ but in many cases a tenancy is still likely to exist. If the association gets it wrong the tenant may have a valid remedy through the courts requiring the landlord to.

Allow the tenant to return to the property if not already re-let or;

Provide the tenant with another property

The tenant could also raise separate actions for compensation for loss of property, stress, inconvenience or damaged property in the enforcement of the original abandonment notices.

* 1. The tenant could also raise separate actions for compensation, e.g. for stress, inconvenience or for property left that may have been disposed of or damaged in the enforcement of the original abandonment notices.
  2. The policy aims therefore to only serve abandonment notices where the property has actually been abandoned and investigations confirm this.
  3. The abandonment procedure must not be used to coerce tenants to contact the Association, for example to discuss rent arrears or because they have failed to allow access for maintenance services. This is an improper use of the procedure and opens the association to an accusation of acting oppressively.

1. **LEGAL BACKGROUND AND COMPLIANCE**
   1. The requirement to occupy the property is contained within the Scottish Secure Tenancy Agreement which tenants have signed with the Association. The key legislation behind the tenancy agreement is the Housing (Scotland) Act 2001.
   2. Ruchazie SST sets out the following conditions:

Part 2.2 you must tell us if you intend to go away for more than four weeks and your house will be unoccupied during that time;

This is designed to protect tenants who may wish to go away on an extended holiday or be away from their house for a good reason.

Part 6.4: If ‘we have reasonable grounds for believing that you have abandoned the house. In this case, we may forcibly enter the house to make it secure. We will also give you at least four weeks’ notice that we believe that you have abandoned the house. If at the end of that period we have reasonable grounds for believing that you have abandoned the house, we may repossess the house by us serving another notice. You have a right to make application to the sheriff against repossession within six months. We will secure the safe custody and delivery to you of any property that is found in the house. We will have the right to make a charge for this and to dispose of any property if you have not made arrangements for its delivery within a given period’.

* 1. In developing this policy the Association has taken into consideration :-
* Housing (Scotland) Act 2001
* Human Rights Act (1198)
* SFHA Raising Standards in Housing (Chapter 8) – Void Management (July 2002)

1. **RISK MANAGEMENT** 
   1. Risk can arise from the Association’s Abandoned Policy as a result of:

* Abandoned properties causing loss of rental income
* Shuttered properties having a detrimental effect on the appearance of the estate.
* The abandonment process not being followed correctly. Leaving the Association liable to litigation on the grounds of wrongful or illegal eviction.
  1. Given the importance of these risks effective management of this policy is vital.

1. **RESPONSIBILITY**
   1. The Housing Manager/Housing Officer has the responsibility for the implementation of this policy and in that :-

* They will carry out tenancy management visits and investigate and possible cases of abandonment.
* Liaise with other service providers, including the local authority, to investigate thoroughly the whereabouts of any tenant who may have abandoned their property.
* Resolve any problems associated with tenancy abandonments
* Deal effectively with abandoned tenancies by a joint tenant as outlined in procedures aligned to this policy.
* The Housing Manager has overall responsibility for monitoring performance and reporting to the Management Committee.
* Maintaining the abandoned house register.

1. **DUTY TO OCCUPY THE PROPERTY**
   1. Under the terms of all tenancy agreements, tenants have a duty to occupy their home. A property which lies empty results in lost revenue as well as being a risk to vandalism. The Association will attempt to ensure that properties are occupied by tenants.
   2. An abandoned property is one which is unoccupied and where the tenant has no intention of occupying it as their only or principal home.
2. **ABANDONED TENANCIES**
   1. Where the Association has reasonable grounds for believing that a joint tenant under the tenancy is -

* Not occupying the house and
* Does not intend to occupy the house as their home.

Enquiries will be made to satisfy us that the tenant has abandoned the property.

* 1. Where it is established that the tenant has abandoned the property the Association will repossess the property under Section 17 (4) of the Housing (Scotland) Act 2001 by serving notice on the tenant. According to Section 18 (1) of the Act.

Having served on the tenant a notice and having made ongoing checks that the tenant has abandoned the tenancy the Association may at the end of the 4 weeks’ notice period serve a further notice bringing the tenancy to an end with immediate effect.

1. **JOINT TENANTS**
   1. The Association will use provisions contained within the Housing (Scotland) Act 2001 to bring to an end the interest of a joint tenants where the joint tenant appears to have abandoned the joint tenancy

* 1. Where the Association has reasonable grounds for believing that a joint tenant under the tenancy is
* Not occupying the house and
* Does not intend to occupy the house as their home.

Enquiries will be made to satisfy us that the tenant has abandoned the property.

* 1. Where it is established that the tenant has abandoned the property the Association will bring to an end the interest in the abandoning tenants in the tenancy under Section 20 (2) of the Housing (Scotland) Act 2001 by serving notice on the tenant.

Having served on the tenant a notice and having made ongoing checks that the tenant has abandoned the tenancy the Association may at the end of the 4 weeks’ notice period serve a further notice bringing 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.

The Association on serving a notice on the abandoning tenant must also serve a copy of the notice on each of the other joint tenants.

The Association will take a sympathetic approach to those joint tenants who are identified as being the victim of domestic abuse when pursuing a joint abandonment. The Association has a Domestic Abuse Policy which outlines how we will manage such cases.

UNDER Section 21 of the Act, a tenant who is aggrieved by the termination of the tenancy under Section 20(2) may raise legal proceedings within 8 weeks after the date of service of the notice.

1. **PROPERTY FOUND IN AN ABANDONED PROPERTY**
   1. Where property is found in an abandoned property, the Association will immediately serve a notice on the tenant that the property is available for delivery into the hands of the tenant. This notice complies with the Scottish Secure Tenancies (Abandoned property Order 2002. The notice gives the tenant 28 days to collect their property. If the property is not collected the Association can make a decision on the expiry of the 28 day notice to dispose of the goods or to arrange to store personal property of the tenant)s) for up to 6 months, providing that the storage costs along with any rent arrears are not greater than the value of the goods.
   2. The association will charge the tenant any costs in respect of storage of the goods before they are delivered to the tenant. Where the tenant has not arranged for delivery of the goods prior to the expiry of the six months period, the Association will be authorised to dispose of such property.
2. **TENANTS’ RIGHT OF APPEAL**
   1. Should any tenant who has their tenancy repossessed in accordance with the Abandoned Tenancy Policy and procedures feel that they have been treated wrongly or unfairly then they have a right of appeal. Internally the details of how to complain are laid out in the Associations Complaints Procedure.
   2. If found that the Association has acted unfairly in the Abandonment procedure, the Association may make an offer of other alternative suitable accommodation as soon as it is able to do so.
   3. The tenant may raise legal proceedings within 6 months after the date of termination of the tenancy.
3. **REPORTING**

10.1The Housing Manager will provide information to the Management Committee at least annually on the following:-

* The number of abandonment notices issued
* The number of abandoned properties recovered
* Details of any issues that may require policy or procedural change
* Information about any tenant who formally initiates a right of appeal under Section 19 or 21.(tenants recourse to court/joint tenancies – abandoning tenants recourse to court.

1. **STAFF TRAINING AND DEVLOPMENT**

11.1 Ruchazie Housing Association recognise that staff are key resource in ensuring an effective service. It is important that staff have the confidence and knowledge to identify and investigate issues and take appropriate action.

11.2 All staff will receive training on void management issues to keep them aware of all the options available for dealing with problems and to enable them to develop the necessary skills to put these effectively into practice.

1. **EQUAL OPPORTUNITIES**

This policy complies with Ruchazie Housing Association’s Equal Opportunities Policy. The Association recognises the need to promote diversity, fairness, social justice and equality of opportunity. It is committed to providing fair and equal treatment to all tenants and will not discriminate against any on the grounds of race, colour, ethnic or national origin, religion, age, gender, sex, sexual orientation, marital status, family circumstances, employment status, physical or mental ability.

1. **COMPLAINTS/APPEALS**

We accept that despite our best efforts, problems arise from time to time. Should you have a complaint about how this policy or procedures have been handled or any other issue in respect of its implementation, then you should use our complaints procedure.

This is a separate document and can be requested from any member of staff at our office.

1. **OTHER FORMATS**

This document is available in other formats such as audio tape, CD, Braille and large print. It can also be made available in other languages on request.

1. **REVIEW**

The Association will review this policy very 5 years in consultation with tenants and service users.

More regular reviews will be considered where, for example, there is a need to respond to legislative or good practice guidance.

1. **LINKS TO OTHER POLICIES**

Void Management Policy

Rent Arrears Policy

Estate Management Policy

Allocation Policy

Date:

Tenant’s Name

Tenant’s Address

Dear,

**Housing (Scotland) Act 2001 - Section 17 & 18 Abandoned Tenancies**

I have reason to believe that your house at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ is unoccupied and that you do not intend to live in it as your home for the following reason(s):

On behalf of Ruchazie Housing Association Ltd I therefore give you notice that if you intend to use the house as your home, you must contact me in writing at the above address within 29 days of the date shown at the top of this letter.

**If at the end of the 29 days it appears that you do not intend to occupy the house as your home your tenancy of** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **will be terminated IMMEDIATELY.**

In accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002, if there is property in the house, I hereby give you notice on behalf of Ruchazie Housing Association Ltd, that you must collect such property from the house within 28 days of the date shown at the top of this notice. **Should it be necessary to store any of your possessions found in the house, the cost of such storage will be charged directly to you.**

**If you reply to this letter, you must do so in writing to the Housing Manager at this office, any reply must be by recorded delivery.**

**Any reply not posted in this way will be held not to have been properly served on Ruchazie Housing Association Ltd for the purpose of any time limit imposed on the Ruchazie Housing Association Ltd by the Housing (Scotland) Act 2001.**

Yours sincerely

**Housing Officer**

**Aband 1**

Date:

Tenants name

Tenants address

Dear

**Housing (Scotland) Act 2001 - Section 17 & 18 Abandoned Tenancies**

On behalf of Ruchazie Housing Association Ltd I hereby give notice that as from the date of this Notice your tenancy at has been terminated.

You no longer have any right to occupy the above house and Ruchazie Housing Association Ltd will remove any property left by you in the house.

Any enquiries should be made to the address at the top of this Notice.

Yours sincerely

Housing Officer

Aband 2

Date:

Tenant’s Name

Tenant Address

Dear

**NOTICE: ABANDONED JOINT TENANCY**

**HOUSING (SCOTLAND) ACT 2001: SECTION 20(2)**

On behalf of Ruchazie Housing Association Ltd I am serving you with a notice under section 20(2) of the Housing (Scotland) Act 2001, as I do not believe you are occupying your house at and do not intend occupying it as your home as a joint tenant for the following reason(s).

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Please inform me in writing within 4 weeks of the date of this notice if you intend to occupy the house as your home.

If at the end of the 4 weeks it appears that you do not intend to occupy the house as your home a further notice will be served upon you. Such a notice will bring your interest in the Joint Tenancy of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(address of property)

to an end 8 weeks from the date it is served.

If you reply to this letter, you must do so in writing to The director, Ruchazie Housing Association, at this office and any reply must be by recorded delivery. Any reply not posted in this way will be held not to have been properly served on Ruchazie Housing Association Ltd for the purpose of any time limit imposed on Ruchazie Housing Association Ltd by the Housing (Scotland) Act 2001.

Yours sincerely

Housing Officer

J/T Aband 1

Date :

Tenant’s Name

Tenant Address

Dear

**NOTICE: ENDING A JOINT TENANT’S INTEREST IN A TENANCY:**

**HOUSING (SCOTLAND) ACT 2001: SECTION 20(3)**

On behalf of Ruchazie Housing Association Ltd I wrote to you on **(insert date)** serving notice that I did not believe that you were occupying your house **at (insert address**)

and that you did not intend occupying it as your home as a joint tenant.

I note that you have not responded to the notice and after making such inquiries as necessary, I am satisfied that you are not occupying the house and do not intend to occupy it as your home.

On behalf of Ruchazie Housing Association Ltd I am serving you with a further notice bringing your interest in the tenancy of …………………………….to an end on **(insert date – 8 weeks from the date this notice was served).**

If you reply to this letter, you must do so in writing to The Director at this office and any reply must be by recorded delivery.

Any reply not posted in this way will be held not to have been properly served on Ruchazie Housing Association Ltd for the purpose of any time limit imposed on the Ruchazie Housing Association Ltd by the Housing (Scotland) Act 2001.

Yours sincerely

Housing Officer

J/T aband 2

**Abandonment - Inventory and Storage Tracking**

|  |  |
| --- | --- |
| Date of Inspection |  |
| Address |  |
| Tenant(s) name |  |
|  |  |

|  |  |  |
| --- | --- | --- |
| Inspected by | Job Title | Signature |
| 1. |  |  |
| 2. |  |  |

**ALL PHOTOGRAPHS TAKEN SHOULD BE ATTACHED TO THIS DOCUMENT**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **ROOM** | **ITEMS** | **CONDITION** | **PHOTOGRAPHS**  **Y/N** | **STORE**  **Y/N** |
| **LIVING ROOM** |  |  |  |  |
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| **HALL** |  |  |  |  |
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| **KITCHEN** |  |  |  |  |
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| **BATHROOM** |  |  |  |  |
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| **BEDROOM 1** |  |  |  |  |
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| **BEDROOM 2** |  |  |  |  |
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| **BEDROOM 3** |  |  |  |  |
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| **BEDROOM 4** |  |  |  |  |
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| **GARDEN** |  |  |  |  |

|  |  |
| --- | --- |
| Storage information | |
| Total no of items removed for storage (as above) |  |
| Name of storage company, address and phone number |  |
| Date into storage |  |
| Review Date |  |
| Housing Officer present |  |
| Signed |  |
| Date |  |

Date:

Tenant’s Name

Tenant’s Address

Dear

**NOTICE – ABANDONED PROPERTY:**

**HOUSING (SCOTLAND) ACT 2001: SECTION 18(4)**

**THE SCOTTISH SECURE TENANCIES (ABANDONED PROPERTY) ORDER 2002 (THE ORDER)**

When Ruchazie Housing Association Ltd took possession of your house at (insert address) on (insert date) some property belonging to you was found within the house.

The property was removed and has been placed into storage.

If you wish to collect the property, please contact (insert name) at this office.

You will have to pay all the costs incurred by Ruchazie Housing Association Ltd for securing, removing and storing your property before it is returned to you. The costs will be approximately (provide estimate of costs).

If you do not contact me within 28 days of the date on this notice I will dispose of the property in accordance with the provisions of the Order.

Yours sincerely

Housing Officer

Abandonment Notice 1

Service delivery

Notice, of which the attached copy notice is certified a true copy was served on:

(Name of Tenant)

at

Address:

Postcode:

* By introducing the notice into the dwelling house at:
* By means of a letter box on/or attached to security door.

Date of Service:

Certified a true copy by:

Name

Signature:

Address

Occupation:

Served by:

Name

Signature

Address

Occupation

Witness to the Serve:

Name

Signature

Occupation:

Employer:

Abandonment Notice 2

Service delivery

Notice, of which the attached copy notice is certified a true copy was served on:

(Name of Tenant)

at

Address:

Postcode:

* By introducing the notice into the dwelling house at:
* By means of a letter box on/or attached to security door.

Date of Service:

Certified a true copy by:

Name

Signature:

Address

Occupation:

Served by:

Name

Signature

Address

Occupation

Witness to the Serve:

Name

Signature

Occupation:

Employer:

Abandonment Notice

Tracking sheet/check list

|  |  |
| --- | --- |
| Address |  |
| Name of tenant |  |
| Property reference |  |

|  |  |
| --- | --- |
| Date of abandonment 1 notice |  |
| Served by |  |
|  |  |
| Reasons for abandonment | 1.  2.  3. |
| Contact from tenant  Date of Contact  Outcome of contact | YES/NO |
| Abandonment 1 cancelled | YES/NO |
| Housing Officer |  |
| Housing Manager |  |

|  |  |
| --- | --- |
| Date of Abandonment 2 notice |  |
| Served by |  |

|  |  |
| --- | --- |
| Housing Officer |  |
| Housing Manager |  |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Aband. 1 | Delivery | Aband. 2 | Delivery | Inventory | Photographs |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

Internal Checks Evidence for Decision

|  |  |  |
| --- | --- | --- |
| Action | Comments (Yes/No) | By |
| Rent checks |  |  |
| Check family/friends/neighbours |  |  |
| Keys handed in |  |  |
| Housing Benefit checks |  |  |
| Dates property visited |  |  |
| Any other occupants |  |  |
| Check windows |  |  |
| Check for pets |  |  |
| Accumulation of mail |  |  |
| Garden maintenance/wheelie bin use |  |  |
| Utility provider checks |  |  |
| Checked known care providers/hospitals |  |  |
| Make enquiries with local authority |  |  |
|  |  |  |