



**WILLIAMSBURGH**  
HOUSING ASSOCIATION LTD

## **ABANDONMENT POLICY**

|                              |                    |
|------------------------------|--------------------|
| Date Reviewed                | 29 June 2022       |
| Management Committee Meeting | 529                |
| Reviewer                     | Housing Management |
| Next Review Date             | June 2025          |

## **Contents**

1. Introduction
2. Aims and Objectives
3. Legal Framework
4. Establishing if the Property has been Abandoned
5. Keys Returned to WHA with no Termination Notice
6. Abandonment
7. Repossession of the Property
8. Personal Belongings found in an Abandoned Property
9. Collection of Property
10. Disposal of Property
11. Landlords Rights By Hypothec
12. Repairs
13. Terminating A Joint Tenancy
14. Tenant's Right To Recourse
15. Remaining Occupants Who Are Not A Tenant Or Joint Tenant
16. Squatters
17. Register of Abandoned Properties
18. Reporting and Monitoring
19. Review of this Policy

## **1. INTRODUCTION**

An abandoned property is one, which is defined by the Housing (Scotland) 2001 as 'a property which is not being used by the resident as his/her principle home'. Williamsburgh Housing Association wishes to ensure that our housing stock is used as effectively and efficiently as possible.

The Housing (Scotland) Act 2001 and the Tenancy Agreement gives Williamsburgh Housing Association (WHA) the right to enter properties which are unoccupied and where there are reasonable grounds to believe that it is abandoned in order that we can secure the property against vandalism and repossess the property for future letting.

Williamsburgh Housing Association's policy is to re-let properties as quickly as possible in order to minimise rent loss resulting from abandoned properties and to comply with the requirements of the Scottish Secure Tenancy (Abandoned Property) Order 2002.

## **2. AIMS AND OBJECTIVES OF THE POLICY**

The overall aim of this policy is to identify, repossess and re-let properties as quickly as possible in order to minimise the rent loss resulting from abandoned properties. The specific objectives of this policy are to:

- make the best use of its 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
- establish quickly whether a property is abandoned
- minimise the potential rent loss
- minimise costs to the Association e.g. of repairs, storing belongings etc.
- safeguard the rights of tenants and the Association when repossessing a property

### **3. LEGAL FRAMEWORK**

The provisions and implementing of the Abandonment Policy aims to comply with the following legislation and statutory documents:

- Housing (Scotland) Act 2001
- Housing (Scotland) Act 2014
- Scottish Secure Tenancy (Abandoned Property) Order 2002
- Data Protection Act 1998
- Human Rights Act 1998
- Equality Act 2010
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Scottish Secure and Short Scottish Secure Tenancy Agreement
- The Scottish Social Housing Charter

### **4. ESTABLISHING IF THE PROPERTY HAS BEEN ABANDONED**

Before taking repossession of an abandoned property every attempt will be made by WHA to satisfy itself that the property is unoccupied and that the tenant has no intentions of re-occupying it. WHA will make reasonable enquiries, for example, of family, neighbours, employers, health boards, police, local authority, schools etc., to establish if the tenant has abandoned the tenancy.

The Housing Officer/Housing Area Assistant should record all actions taken in all potential Abandonment situations. Staff will use the following as a guide:

- Does the house look abandoned? Look through the windows and letterbox
- Is there a build-up of mail behind the door or are there newsletters/leaflets stuck in the letterbox?
- Check with neighbours when the tenant was last seen by them. Check if they know the whereabouts of the tenants or when lights were last seen on or heard noises from the property.
- Check the rent account for the last payment made. If benefits are paid directly to WHA, check with the local authority or DWP if there has been a change of the tenant's circumstances that they are aware of.
- Check when the last repair was requested or carried out.
- Check with local authority or other RSL (Registered Social Landlords) as the tenant may have been rehoused.
- The tenant may have daily services e.g. home help, district nurse. Contact the service to establish when they last seen the tenant.
- If applicable, check the tenant's records for any details on next of kin, family members etc.

- Contact any other relevant agencies e.g. Police Scotland, Social Work Department, employer.

If the Housing Officer/Housing Area Assistant has reasonable grounds for believing that a property has been abandoned and is in danger from vandalism, gas safety, frost damage or water penetration, the Housing Manager or Head of Housing can authorise that the property is forcibly entered to make it secure. Any proposed forced entry should be notified to the Police in advance advising of WHA's concerns and two staff should be present with the contractor at all times until the property is secured.

## **5. KEYS RETURNED TO WHA WITH NO TERMINATION NOTICE**

In these circumstances the normal Abandonment Procedure will be followed by WHA.

## **6. ABANDONMENT**

Where it is identified that the property has been abandoned, and the tenant has failed to make contact with WHA, the Housing Officer/Housing Area Assistant will serve a statutory Notice of Termination of Scottish Secure Tenancy giving the tenant 28 days' notice (Appendix 1).

The notice should be hand delivered to the tenant at the property and also issued to the tenant at their last known address (if this is different). The notice should be served separately on each tenant and joint tenant. A copy of the proof of delivery receipt for the first notice should be retained on the tenant file.

The Housing Officer/Housing Area Assistant will note in their diary to check on the eve of the 28 days expiry if the tenant has been in contact. The maintenance team should also be advised at this time. If there is still no contact from the tenant at the end of this period, the Association has a legal right to end the tenancy immediately after this notice expires.

The Housing Officer/Housing Area Assistant will issue to the property address and to the tenant's last known address (if different) by way of a hand delivered letter a final notice on the 29th day advising that the tenancy has been terminated (Appendix 2). Again, the final notice should be served separately on each tenant and joint tenant. A copy of the proof of delivery receipt for the final notice should be retained on the tenant file.

## **7. REPOSSESSION OF THE PROPERTY**

Once WHA is in legal possession of the property, the Housing Officer and Housing Area Assistant or a member of the maintenance team should arrange to jointly visit the property to change the locks. This should be done within at least 2 working days of the tenancy ending.

Maintenance staff will also carry out a void inspection and instruct any works required to meet the minimum letting standards.

## **8. PERSONAL BELONGINGS FOUND IN AN ABANDONED PROPERTY**

A full inventory and photographs of all belongings left in the abandoned tenancy and outbuildings such as a garage or garden shed will be taken by the Housing Officer/Housing Area Assistant (Appendix 3), including photographs of anything significant and any damage to the property should also be recorded at this time. The Housing Officer/Housing Area Assistant will sign the inventory and this should be witnessed by the member of staff from either the housing or maintenance team.

If there is anything in the property which causes concerns around potential criminal activity, for example the presence of illegal drugs, dangerous weapons, illegal occupation, or stolen property, this will be reported to the police immediately. If there are any abandoned animals within the property, this will be reported to the Scottish Society for Prevention of Cruelty to Animals (SSPCA) and removal will be arranged.

Where valuable removable items are identified, large sums of cash or jewellery, these should be photographed in detail and jointly signed off in the inventory. The items should be transferred from the property to the Association safe for safe keeping, whilst the police are contacted.

The inventory, photographs and any notes should be saved and clearly identified as information relating to an Abandonment and archived in the tenant file.

The Housing Officer/Housing Area Assistant will provide comment on the condition of the belongings and any supporting photographic evidence should be signed on the inventory. However, where the tenancy and belongings are in a filthy and/or infested condition, the Housing Officer/Housing Area Assistant should make an inventory and take pictures of items which can be seen. A note should be made on the inventory that only a visual inspection was made along with the reasons for this.

No staff member will touch any hazardous items such as drugs, used needles or dangerous weapons found in the abandoned property. However, the appropriate agencies should be contacted as soon as possible.

A property collect notice will be served on the former tenancy at the former tenants address (the abandoned property), if no other address is known. It must advise that the property is available for collection on receipt of payment of all storage costs/other outstanding debt e.g. rent arrears due within the period specified in the notice. (Appendix 4).

The Housing Officer/Housing Area Assistant will decide on whether the items will be stored in the property or removed to a storage facility.

## **9. COLLECTION OF PROPERTY**

The former tenant may collect the property, upon payment of any storage costs/outstanding debt. If the property is being stored privately it is essential to make arrangements with the company not to hand over the belongings without WHA's consent. The former tenant should contact the Housing Officer/Housing Area Assistant who will determine the payment required for transport and storage costs.

## **10. DISPOSAL OF PROPERTY**

Where property has not been collected within 28 days of notice being served on the tenant, this property will be stored for a period of 6 months from the date upon which we took possession of the property, after which time we may sell the property and retain from the sale proceeds our reasonable expenses (and any rent arrears remaining). We are not required to store property which if sold would not cover our reasonable expenses. This can be disposed of after the initial 28 day notice period has elapsed.

The Housing Manager or Head of Housing should endorse the recommendation on the inventory in these cases.

Any remaining credit should be put towards rent arrears and rechargeable repairs, any outstanding credit should be credited to the former tenants account and refunded if the former tenant's whereabouts become known, otherwise this shall be written off.

## **11. LANDLORDS RIGHTS BY HYPOTHEC**

A landlord's hypothec is a common law right over all moveable property in a house, with certain exceptions, when there is rent due. The landlord can hold on to this property until the rent is paid.

## **12. REPAIRS**

The Association shall carry out repair work to the abandoned property for which it is responsible in accordance with tenancy or lease agreements. Charges shall be levied where a repair is necessary as a result of the wilful, negligent or accidental actions of the tenant's household (rather than through fair wear and tear).

## **13. TERMINATING A JOINT TENANCY**

The Housing (Scotland) Act 2001 introduced new legislation regarding joint tenancies where one partner has abandoned their tenancy. If the Association has reasonable grounds to believe that a joint tenant has abandoned their tenancy, that tenant will be given notification in writing that their interest in the property will be terminated within twenty-eight days (Appendix 5). This notice must be copied to each of the other joint tenants (i.e. not just to the abandoning tenant).

If there is no response from the tenant at the end of this 28 day notice, and the Association has reasonable grounds for believing that the member has abandoned the property, a second notice will be served which will terminate that joint tenant's interest in the tenancy after a further 8 weeks. (Appendix 6)

The joint tenant's interest in the tenancy will end 12 weeks following the serving of the first notice. It should be noted that the second notice does not terminate the tenancy, which will continue in the remaining tenant's name. If the tenant who has abandoned leaves personal belongings in the property, and the remaining member does not want them, the Association has no legal obligation to remove these belongings from the property; this responsibility will lie with the remaining tenant.

## **14. TENANT'S RIGHT TO RECOURSE**

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.

Tenants have six months from the date of repossession – eight weeks from the date of service of the Notice in the case of abandonment by a joint tenant – in which to complain to the Courts. If the Court holds that WHA failed to comply with the statutory procedures, or did not have reasonable grounds for finding that the property was abandoned, the Court may instruct that the tenancy continue (if the house has not been re-let) or, alternatively, will ensure that WHA makes alternative accommodation available to the tenant.



## **15. REMAINING OCCUPANTS WHO ARE NOT A TENANT OR JOINT TENANT**

If a tenant abandons their property and leaves behind any occupant(s) over the age of sixteen, who is not a tenant, the property is not deemed in law as being abandoned as it continues to be occupied. Legal advice should be sought from the Association's solicitors in such instances.

If the person remaining is the spouse of the tenant, then they may have occupancy rights to the property under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.

## **16. SQUATTERS**

The Trespass (Scotland) Act 1865 makes it unlawful for a person to lodge in any premises or to occupy or encamp on private land without the consent and permission of the owner or legal occupier.

Where squatters occupy a WHA property, found to be abandoned, the Association will seek legal advice from its solicitors to instigate court proceedings immediately to remove the squatters from the premises.

## **17. REGISTER OF ABANDONED PROPERTIES**

17.1. WHA holds a register of Abandoned Properties in the form of an electronic report which identifies those properties which have been abandoned.

## **18. REPORTING AND MONITORING**

An annual report to the Management Committee in the form of the Annual Return on the charter will be provided on the following:-

- number of tenancies terminated as a result of abandonment;
- Percentage of rent due lost through properties being empty during the last year; and
- Average length of time taken to re-let properties in the last year.

## **19. REVIEW OF THIS POLICY**

The Abandonment Policy will be reviewed every three years, unless earlier changes are required through analysis of the abandonment process, feedback from tenants, or owing to any legislative changes.

## **APPENDIX 1**

Our ref: QL/ABAND1/CRM«CONTACT\_SEQ»

24 June 2022

«CLIENT\_TITLE» «CLIENT\_INITIALS» «CLIENT\_SURNAMES»  
«CLIENT\_ADD1»  
«CLIENT\_ADD2»  
«CLIENT\_ADD3»  
«CLIENT\_POSTCODE»

Dear «SALUTATION»

### **ABANDONMENT NOTICE**

**PROPERTY : «CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE»**

It is a condition of your Tenancy Agreement that you occupy the above address as your only or principle home. As we have reason to believe that you are not currently residing in the property, and have not done so for considerable time, I must now serve the enclosed abandonment notice.

If you are residing in the property on a permanent basis, I would advise you to contact our offices immediately.

Please note that if you do not contact our offices before the date stated on your abandonment notice, we will take possession of the property.

If you require any further information regarding the enclosed, I would advise you to either contact our offices or seek legal advice.

Yours sincerely

**Williamsburgh Housing Association**

# Section 18 of the Housing (Scotland) Act 2001

## NOTICE OF TERMINATION OF SCOTTISH SECURE TENANCY

This notice is to inform you, «CLIENT\_FORENAMES» «CLIENT\_SURNAMES», that Williamsburgh Housing Association Limited being the Landlord of the dwelling house at

«CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE»

have reason to believe that the dwelling house is unoccupied, and that you do not intend to occupy it as your home.

You are therefore required to inform Williamsburgh Housing Association Limited in writing, within 4 weeks of service of this notice, as dated below, if you intend to occupy the above dwelling-house as your home.

If it appears to Williamsburgh Housing Association Limited after the 4 week period ending on day and date that you do not intend to occupy the dwelling-house, a further notice will be served on you bringing your interest in the tenancy to an end with immediate effect.

SIGNED .....  
(on behalf of Williamsburgh Housing Association Limited)

POSITION .....

DATE SIGNED AND ISSUED .....

WITNESSED .....

# The Scottish Secure Tenancies (Abandoned Property) Order 2002

«CLIENT\_TITLE» «CLIENT\_INITIALS» «CLIENT\_SURNAMES»  
«CLIENT\_ADD1»  
«CLIENT\_ADD2»  
«CLIENT\_ADD3»  
«CLIENT\_POSTCODE»

In accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002, if personal possessions are in the property that you do not intend to occupy, you must collect them from the property within 28 days or no later than **day and date**.

If you have not collected the possessions by this date, we will remove them on **day and date** (48 hours after first Notice expires) and they will be disposed of unless their value, in our opinion, exceeds the cost of storage plus any arrears that you owe in connection with the tenancy. In which case we will store them for six months from the date of repossession of the house – **day and date**.

If you have not collected the possessions, and paid us for their storage and delivery to you, within six months of the date of repossession of the house, we will dispose of them.

SIGNED .....  
(on behalf of Williamsburgh Housing Association Limited)

POSITION .....

DATE SIGNED AND ISSUED .....

WITNESSED .....

## APPENDIX 2:

Our ref: QL/ABAND2/CRM«CONTACT\_SEQ»

24 June 2022

«CLIENT\_TITLE» «CLIENT\_INITIALS» «CLIENT\_SURNAMES»  
«CLIENT\_ADD1»  
«CLIENT\_ADD2»  
«CLIENT\_ADD3»  
«CLIENT\_POSTCODE»

Dear «CLIENT\_TITLE» «CLIENT\_SURNAMES»

### ABANDONMENT NOTICE

PROPERTY : «CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE»

It is a condition of your Tenancy Agreement that you occupy the above address as your only or principle home. As we had reason to believe that you are not currently residing in the property, and have not done so for some considerable time, an abandonment notice was served to the property on **day and date**.

As the 28 day period has now lapsed, our second notice is enclosed.

**This Association shall now make arrangements to change the locks to the property on day and date**

If you require any further information regarding the enclosed, I would advise you either contact our offices or seek legal advice.

Yours sincerely

**Williamsburgh Housing Association**

**Section 18 of the Housing (Scotland) Act 2001**  
**NOTICE OF RE-POSSESSION**

On day and date, Williamsburgh Housing Association Limited served on you a notice requiring you to inform us, in writing, within 4 weeks, if you intended to occupy «CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE», as your home.

This SECOND notice is to inform you «CLIENT\_FORENAMES» «CLIENT\_SURNAMES» that Williamsburgh Housing Association Limited being the Landlord of the dwelling house at «CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE», has reason to believe that the dwelling house is unoccupied, and that you do not intend to occupy it as your home.

The 4 week period ending on day and date has now elapsed, and you have not contacted the Association, stating that you intend to occupy the dwelling house. The Association therefore has no alternative but to terminate your Scottish Secure Tenancy with immediate effect.

If you have not collected the property within the next 28 days, it will be disposed of unless its value exceeds the cost of storing it plus any arrears you owe us in connection with the tenancy, in which case we will store it for 6 months from the date of repossession of the house. If you have not collected the property, and paid us for its storage, within 6 months of the date of repossession of the house, we will dispose of it.

SIGNED .....  
(on behalf of Williamsburgh Housing Association Limited)

POSITION .....

DATE SIGNED AND ISSUED .....

WITNESSED .....



## **APPENDIX 4:**

Our ref: QL/P\_COLL/CRM«CONTACT\_SEQ»

24 June 2022

«CLIENT\_TITLE» «CLIENT\_INITIALS» «CLIENT\_SURNAMES»  
«CLIENT\_ADD1»  
«CLIENT\_ADD2»  
«CLIENT\_ADD3»  
«CLIENT\_POSTCODE»

Dear «SALUTATION»

### **ABANDONMENT NOTICE**

**PROPERTY : «CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE»**

I write to advise that following the Association's recovery of the above property through our abandonment procedure, various personal effects were found.

The Association will store these for a period of 28 days, they will then be disposed of unless the value exceeds the cost of storage plus any arrears you owe us in connection with the tenancy. Should you wish to recover them during this time, please contact me to make arrangements for their disposal and repayment of any monies due to us.

After this time elapses, the goods will be disposed of recovering any costs owed to us.

Yours sincerely

**Williamsburgh Housing Association**



## Appendix 5

Our ref: QL/J\_ABAND1/«CLIENT\_ID» - «CONTACT\_SEQ»

24 June 2022

«CLIENT\_TITLE» «CLIENT\_INITIALS» «CLIENT\_SURNAMES»  
«CLIENT\_ADD1»  
«CLIENT\_ADD2»  
«CLIENT\_ADD3»  
«CLIENT\_POSTCODE»

Dear «CLIENT\_TITLE» «CLIENT\_SURNAMES»

### **ABANDONMENT NOTICE – Joint Tenancy**

**PROPERTY : «CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3», «CLIENT\_POSTCODE»**

It is a condition of your Tenancy Agreement that you occupy the above address as your only or principle home. As we have reason to believe that you are not currently residing in the property, and have not done so for considerable time, I must now serve the enclosed abandonment notice.

If you are residing in the property on a permanent basis, I would advise you to contact our offices immediately.

Please note that if you do not contact our offices before the date stated on your abandonment notice, we will bring your interest in the tenancy to an end.

If you require any further information regarding the enclosed, I would advise you to either contact our offices or seek legal advice.

Yours sincerely

**Williamsburgh Housing Association**

**Housing officer/assistant**

**Section 20 of the Housing (Scotland) Act 2001**

**NOTICE OF TERMINATION OF INTEREST IN SCOTTISH SECURE  
TENANCY**

This notice is to inform you, «CLIENT\_FORENAMES» «CLIENT\_SURNAMES», that Williamsburgh Housing Association Limited being the Landlord of the dwelling house at

«CLIENT\_ADD1», «CLIENT\_ADD2», «CLIENT\_ADD3»,  
«CLIENT\_POSTCODE»

has reason to believe that the said dwelling house is unoccupied by you, and that you as the joint tenant do not intend to occupy the said dwelling house as your home.

You are therefore required to inform Williamsburgh Housing Association Limited in writing, within 4 weeks of service of this notice, as dated below if you intend to occupy the above dwelling-house as your home.

If it appears to Williamsburgh Housing Association Limited after the 4 week period ending on day and date that you do not intend to occupy the dwelling-house, a further notice will be served on you bringing your interest in the tenancy to an end from a date specified therein.

SIGNED .....  
(on behalf of Williamsburgh Housing Association Limited)

POSITION .....

DATE SIGNED AND ISSUED .....

WITNESSED .....

**Section 20 of the Housing (Scotland) Act 2001**

**NOTICE OF TERMINATION OF INTEREST IN SCOTTISH SECURE  
TENANCY**

On day and date, Williamsburgh Housing Association Limited served on you a notice requiring you to inform us, in writing, within 4 weeks, if you intended to occupy «CLIENT ADD1», «CLIENT ADD2», «CLIENT ADD3», «CLIENT POSTCODE», as your home.

This SECOND notice is to inform you «CLIENT\_FORENAMES» «CLIENT\_SURNAMES» that Williamsburgh Housing Association Limited being the Landlord of the dwelling house at «CLIENT ADD1», «CLIENT ADD2», «CLIENT ADD3», «CLIENT POSTCODE», has reason to believe that the said dwelling house is unoccupied by you, and that you as the joint tenant do not intend to occupy the said dwelling house as your home.

The 4 week period ending on day and date has now elapsed, and you have not contacted the Association, stating that you intend to occupy the dwelling house. The Association therefore has no alternative but to inform you that your interest in the tenancy will be terminated 8 weeks from now on day and date

SIGNED .....  
(on behalf of Williamsburgh Housing Association Limited)

POSITION .....

DATE SIGNED AND ISSUED .....

WITNESSED .....