



# **Abandonment and Repossession of Property Policy**

**Approval date  
February 2019**

**Review date  
February 2022**

## This policy applies to

- |   |                                       |  |  |
|---|---------------------------------------|--|--|
| <input type="checkbox"/> Link Group         | <input type="checkbox"/> Link Housing | <input type="checkbox"/> Link Living   | <input type="checkbox"/> Link Property |
| <input checked="" type="checkbox"/> Horizon | <input type="checkbox"/> Larkfield    | <input type="checkbox"/> West Highland | <input type="checkbox"/> Lintel Trust  |

## Policy Summary

This policy relates to how we aim to re-let properties as quickly as possible, in line with legislation, in order to minimize rent loss resulting from abandoned properties.

## Equalities

N/A

## Privacy

GDPR regulations have been considered in reviewing this policy

**Policy Owner**  
Operations Director

**Review Manager**  
Housing and  
Communities Manager –  
Feb 2019

**Approved By**  
Management team –  
February 2019

## Revision History

| Date | Version Number | Comments |
|------|----------------|----------|
|      |                |          |

## **1. INTRODUCTION**

This policy lays out how Horizon deals with properties that have been abandoned and how it recovers possession.

## **2. PRINCIPLES**

The following principles govern the operation of this policy:

- Adherence to legislation
- Fairness and transparency

## **3. OBJECTIVES**

The objectives of this policy are to provide:

- Adhere to legislation in relation to abandonment of tenancy in particular the Housing (Scotland) Act 2001
- Minimise the period properties are vacant
- Minimise rent loss and related costs
- Respect rights of tenants and occupants as laid out in the Scottish Secure Tenancy Agreement

## **4. APPROACH AND METHOD**

The Board of Horizon in its formal approval of the policy acknowledges that it accepts full responsibility for its implementation. Day-to-day responsibility for the operation of this policy lies with the appropriate directors and managers of Horizon. All relevant employees have a responsibility to ensure that this policy is applied as instructed.

The policy will be implemented using the following approaches:

### **4.1 DEFINING ABANDONED PROPERTY**

4.1.1 When tenants cease to occupy a property without giving notice as laid out in the Tenancy Agreement for the termination of their tenancy. This situation is referred to as abandonment of the property.

4.1.2 Where the Association believes that a tenant has abandoned the property, Housing Services staff will carry out an exhaustive process of attempting to contact the tenant, if unsuccessful will follow the statutory procedure as detailed:

### **4.2 RECOVERING POSSESSION OF ABANDONED PROPERTY**

4.2.1 Where efforts to contact or trace the tenant/s are unsuccessful an Abandonment Notice will be served on the tenant/s at the address of the property.

The Notice will either be served by two members of staff, who will both sign date and witness the serving of this notice or be served by a Sheriff Officer. This should be in the Tenancy record.

4.2.2 If the tenant contacts the Association during the 4-week period of the first notice the housing officer will remind the tenant of their obligation to stay in the property as their only and principal home under the terms of their tenancy agreement. The Housing Officer should also aim to find out if there are any underlying issues or problems which has led to their absence or failure to engage and seek to provide, or sign post to, appropriate support.

4.2.3 If, after 4 weeks, there is no contact by the tenant, a further, final statutory notice will be served. This brings the tenancy to an end, with immediate effect.

### **4.3 DEALING WITH TENANT'S POSSESSIONS IN ABANDONED PROPERTY**

4.3.1 The Association will take an inventory and assess the value of any belongings left in the property. Where the value, if sold, is greater than the cost of storage and any outstanding rent arrears the belonging should be removed and stored for up to a maximum of 6 months.

4.3.2 Where the former tenant makes contact within the 6-month period, they will be required to pay any rent arrears, outstanding rechargeable repairs, costs of securing the property and restoring it to a let-able condition and/or the storage costs.

4.3.3 In the event of the goods not being claimed within the six-month period, they may be disposed of at the Association's discretion, including sale. Any funds received from sale will be used to defray the costs described in 4.2 above.

4.3.4 Section 19 of the Housing (Scotland) Act 2001 gives a tenant whose house has been repossessed the right of appeal to the Sherriff court by summary application. This must be within 6 months from the date of termination.

### **4.4 ABANDONMENT BY A JOINT TENANT**

4.4.1 The Housing (Scotland) Act 2001 details how the landlord should deal with the abandonment of the tenancy of a joint tenancy.

4.4.2 We will make all reasonable enquiries to satisfy that the abandoning tenant is not occupying the house and does not intend to occupy it as their principal home. Efforts will be made to contact the joint tenant at their present address inviting them to put in writing their intention to end their interest in our property, since they are no longer resident. These enquiries will be fully recorded in the tenancy record.

4.4.3 Where the Association is unable to make contact with the joint tenant or if the joint tenant does not put in writing to the Association their intention to end the tenancy the Association will serve an Abandonment Notice on Where the Association is unable to make contact with the joint tenant or if the joint tenant does not put in writing to the Association their intention to end the tenancy the Association will serve an Abandonment Notice on the interest of the joint tenant.

4.4.4 Under Section 20 of the Housing (Scotland) Act, a tenant who has had their interest in the property terminated has eight weeks to appeal against the decision. The exception to this where there is a dispute as to who should live in the property under the Matrimonial Homes Act. No abandonment notice should be served in these circumstances. In such cases, where the tenants cannot agree, a Court will decide who should keep the tenancy and the Association will be notified by the Court.

#### **4.5 ABANDONMENT REGISTER**

4.5.1 A property that has been repossessed under the Abandonment Procedure will be noted in an Abandonment Register.

4.5.2 This Register will be considered a public document and available for inspection for up to 5 years after the abandonment of the property. In line with data protection legislation this will be anonymized

#### **4.6 DEALING WITH TENANTS WHO DO NOT OCCUPY PROPERTY AS THEIR ONLY OR PRINCIPAL HOME**

4.6.1 The Association may find that a tenant has ceased to occupy a property as their only or principal home. They may be unwilling to end the tenancy in the usual manner but wish to maintain an interest in the property.

4.6.2. In such situations, where the Association is unable to identify an acceptable reason for absence from the property or an acceptable date for return to occupy the property, the Association will instruct its solicitors to commence proceedings for recovery of possession on the basis that the tenant has breached the conditions of tenancy by failing to occupy the property as their only or principal home. This will be in addition to any other conditions of tenancy that are broken.

### **5. MONITORING OF THE POLICY**

The following areas will be subject to monitoring:

- Risk management
- Quarterly performance reports and annual return on the charter (ARC)
- Provision of training and/ or information to staff
- Compliance with policy requirements and procedures

These will be monitored by appropriate managers within each company and/ or function and reported to the relevant director. If any significant issues of concern arise, these will be dealt with by the director who will report such matters to his/ her Board.

Any matter which demonstrates a serious failure of internal controls should also be reported immediately to the Chief Executive.

## 6. COMPLAINTS AND APPEALS

Horizon Housing welcomes complaints, both of which provide information which helps us to improve our services. We use a complaints handling procedure (CHP) developed by the Scottish Public Services Ombudsman (SPSO) and the Scottish Housing Regulator.

The CHP allows for most complaints to be resolved by front line staff within a five-day limit (first stage), or if the complaint is complex, a detailed investigation will be made by a manager within a 20-day limit (second stage). At the end of the second stage our response will be made by a director. If the customer remains dissatisfied, he/ she may then refer the matter to the SPSO.

In addition, The Housing (Scotland) Act 2001 gives tenants recourse to the Sherriff Court if they feel that Horizon has in correctly applied legislation in when repossession their home and this is detailed in sections 4.3.4 and 4.4.4

## 7. POLICY AVAILABILITY

This policy is available on request free of charge from our office at Leving House Fairbairn Place Livingston EH54 6TN and our website [www.horizonhousing.org](http://www.horizonhousing.org). A summary of this policy can be made available in a number of other languages and other formats on request.

## 8. POLICY REVIEW

Horizon Housing undertake to review this policy regularly, at least every three years, with regard to:

- Applicable legislation, rules, regulations and guidance
- Changes in the organisation
- Continued best practice

## Privacy Impact Assessment Screening Questions

Carrying out a Privacy Impact Assessment [PIA] will be useful to any project – large or small – that:

- Involves personal or sensitive data about individuals
- May affect our customers' reasonable expectations relating to privacy
- Involves information that may be used to identify or target individuals

Please tick the applicable statement(s) below. Will your project involve:

1. A substantial change to an existing policy, process or system that involves personal information  Yes  No
2. A new collection of personal information  Yes  No
3. A new way of collecting personal information (for example collecting it online)  Yes  No
4. A change in the way personal information is stored or secured  Yes  No
5. A change to how sensitive information is managed  Yes  No
6. Transferring personal information outside the EEA or using a third-party contractor  Yes  No
7. A decision to keep personal information for longer than you have previously  Yes  No
8. A new use or disclosure of personal information you already hold  Yes  No
9. A change of policy that results in people having less access to information you hold about them  Yes  No
10. Surveillance, tracking or monitoring of movements, behaviour or communications  Yes  No
11. Changes to your premises involving private spaces where clients or customers may disclose their personal information (reception areas, for example)  Yes  No

*If you have answered 'Yes' to any of these points, please complete a full Privacy Impact Assessment. If you have answered 'No', you need take no further action in completing a Privacy Impact Assessment.*

# Equality Impact Assessment Screening Questions

Will the implementation of this policy have an impact on any of the following protected characteristics?

- 1. Age  Yes  No
- 2. Disability  Yes  No
- 3. Gender reassignment  Yes  No
- 4. Marriage and Civil Partnership  Yes  No
- 5. Pregnancy and Maternity  Yes  No
- 6. Race  Yes  No
- 7. Religion or belief  Yes  No
- 8. Sex  Yes  No
- 9. Sexual orientation  Yes  No

*If you have answered 'Yes' to any of these points, please complete a full Equality Impact Assessment. If you have answered 'No', you need take no further action in completing an Equality Impact Assessment.*