

**Report
to the Housing Management Sub Committee
6 February 2008**

For approval

1.0 Subject

Outcome of consultation exercise on the review of the Abandonment Policy.

2.0 Summary

The purpose of this report is to analyse responses to the consultation exercise on the Abandonment Policy before being recommended for approval by the members of the Housing Management Sub Committee and ratified by the Committee of Management.

The Housing Scotland Act 2001 requires specific consultation to be carried out on policy documents when being reviewed and in particular to highlight any significant changes to those policies.

A letter, reply sheet and copy of the draft policy document was issued to 56 Tenant Panel members across the geographical area of the Co-operative and six Registered Tenant Organisations (RTOs) – Deeside, Sheddocksley and Ugievale Tenant Management Boards, Caledonia Court and The Terrace. Appendix One shows the letter issued to the Tenant Panel. The letter issued to the RTOs was similar.

3.0 Link to Internal Management Plan

Consultation with tenant members supports the following objectives in the Co-operatives Internal Management Plan:

- 1a) To deliver the service to clients satisfaction and expectations
- 2b) To develop a system for clients to communicate what they want
- 2c) To encourage the realisation of the Co-operative ethos

4.0 The Results of the Consultation

There were fourteen responses to the consultation exercise representing a 25% return.

Appendix Two shows the Reply Sheet issued and summarises the responses received.

From the summary the following key conclusions and actions may be drawn:

- Q 1. All respondents agreed with all aspects of the Policy aims
- Q2. All respondents agreed with the inclusion of the Policy Elements

- Q4. All respondents were happy with the Policy's statement on Equal Opportunities
- Q5. All respondents agreed that the Policy should be reviewed every three years
- Q6. The vast majority thought the Policy was written was clearly set out; easy to read; easy to understand and free from jargon and technical terms with 2 respondents not answering this question.

Two comments were received which stated:

1. thought the Policy was very clear and comprehensive
2. no problems with this policy, very well set out and easy to understand

5.0 Financial Implications

There are no financial implications as a result of this report.

6.0 Risk Assessment

By carrying out consultation on policy documents the Co-operative adheres to its statutory duties and its legal obligations. It also fulfils the strategic and operational aims of its internal management plan to involve members in policy formulation. There are therefore no operational or strategic risks associated with this report.

7.0 Sustainability

See Risk Assessment above.

8.0 Staffing Issues

Staff training on the Abandonment Policy was carried out in December 2007.

9.0 Equal Opportunities

A statement on the above has been appropriately included in the policy document.

9.0 Recommendations

It is recommended that the members of the Housing Management Sub Committee agree the following:

- To approve the contents of this report
- That no revisions are made to the draft review of the Abandonment Policy
- That the draft review of the Abandonment Policy (attached as Appendix 3) is approved and recommended for ratification to the Committee of Management

- That the results of the consultation exercise are made available to all tenant members via the Tenants Tribune Newsletter and the Co-operative's Web Site.

Cearda McGregor/Patricia Cahill
Housing Managers
December 2007

Our Ref: CM/tf

APPENDIX ONE

Date

«Name»

«Address»

«Area»

«Town»

«Postcode»

Dear Panel Member

ABANDONMENT POLICY

Thank you for agreeing to be a member of the tenant panel. The purpose of this contact is to consult you about the above Policy and to get your views on this document. A copy of the Policy is enclosed for your consideration.

The Abandonment Policy was last re-assessed and approved in 2003 and is now due for its next review. In reviewing the Policy, we have consulted several documents and good practice guidance. The key documents used were:

- Performance Standards for Social Landlords and Homeless Functions
- Scottish Federation of Housing Associations (SFHA) 2006
- Housing (Scotland) Act 2001

Listed below are the main changes made to the Policy:

3.5 Remaining Occupant not a member

This section was added to clarify what action the Co-operative will take if this situation arises.

3.6 Squatters

This section was added to clarify what action the Co-operative will take if this situation arises.

4.0 Training

This section was added to ensure that the Co-operative's committee/board members and staff are provided with the knowledge to manage abandoned properties in a capable and efficient manner.

5.0 Equal Opportunities

The Co-operative includes a statement on equal opportunities in all policy documents to promote its views, beliefs and legal requirements in this respect.

The above are the main differences to the policy but we welcome your views on all its content including layout, presentation and clarity.

You will find enclosed a reply sheet to assist you on commenting on the document. Please complete the areas where you feel you have comments to make and return them in the pre-paid envelope provided. We would be grateful if you could do this by **14 December 2007**.

Should you wish to discuss the document prior to replying please feel free to contact either myself, Cearda McGregor or Pat Cahill, Housing Managers on 628418 between 10:00 a.m. and 3.00 p.m. Monday to Friday. If we are not available please leave your telephone number and we will contact you.

After 23 November, we will collate the replies and consider if these can be incorporated into the Policy document. A report on replies received will be presented to the committee members on the Housing Management Sub Committee who are responsible for recommending approval of the document to the Committee of Management. We will also reply to you directly on the outcomes of this consultation and publish it in a future Newsletter that will be issued to all members.

Thank you for taking time to participate in this tenant consultation process.

Yours sincerely



Cearda McGregor
Housing Manager

Encs: Draft Abandonment Policy
Reply Sheet
Pre-paid envelope

APPENDIX TWO

Tenants First Housing Co-operative

Consultation on the Abandonment Policy

Please answer the questions below after reading the policy.

- 1. Do you agree with **all** aspects of the aims of the Policy on Page 2?
(if No please provide an explanation at no 10 below)

14 SAID YES

- 2. We have identified the central elements of the Policy as follows. Please indicate whether you agree with the inclusion of each element below.

POLICY ELEMENT	YES	NO
3.3 Taking possession of a property	14	
3.4 Terminating a joint tenancy	14	
3.5 Remaining occupant not a member	14	
3.6 Squatters	14	

- 3. Do you think there is anything we could add to this list? **YES/NO**

If YES, please state what these are.

13 SAID NO & 1 DID NOT ANSWER.....

.....

- 4. Are you happy with the Policy's statement on Equal Opportunities **YES/NO**

If NO, please state why

14 SAID YES.....

.....

- 5. Do you agree that the Policy should be reviewed every 3 years **YES/NO**

If NO, please state why

14 SAID YES.....

.....

6. What do you think of the way we have written the Policy?

	Yes	No
Is it clearly set out?	13	
Did you find it easy to read?	13	
Did you find it easy to understand?	13	
Is it free from "jargon" or technical terms?	13	

7. Do you wish to make any other comments about the Policy?

.....**Two comments received**.....

.....
.....
.....
.....
.....
.....
.....
.....

Name of Registered Tenant Organisation (if applicable)

.....

Address

.....

.....

Telephone

If you have answered NO to any of the questions in the questionnaire, or if you have added any other comments, we may contact you to discuss this further. This will allow

us to make sure that the views of tenants are fully taken into account when our policy is finalised and approved by the Co-operative's Committee of Management.

Thank you very much for showing your commitment to the Co-operative by taking the time to complete this questionnaire.

APPENDIX THREE

DRAFT

Tenants First Housing Co-operative

Abandonment Policy

Approved:

Next Review Date:

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1.0 Policy Aims

The Co-operative's aim is to relet properties as quickly as possible in order to minimise rent loss resulting from abandoned properties. The Co-operative recognises the need to have a clear and effective Abandonment Policy and procedures to achieve this. Within this Policy the Co-operative identifies the following as its key aims:

- to determine whether a property is abandoned quickly; and
- to minimise the rent loss on an abandoned property; and
- to minimise the time a property is unoccupied; and
- to minimise the cost of storing belongings; and
- to minimise the cost of repairs; and
- to protect the rights of members when repossessing a property

2.0 Objectives

The approval of this Policy supports the following objectives contained in the Co-operative's Internal Management Plan

- 1h) To ensure sustainability in provision, management and maintenance of housing stock**
- 1i) To provide and maintain properties to meet identified need**

3.0 Abandoned Property Issues

3.1. Identification of abandoned properties

As a general rule, all staff of the Co-operative in the course of their duties, will be alert to any properties that have the appearance of being empty and will either initiate the Abandonment procedure within the timescales set, or notify the appropriate person to do this on their behalf.

3.2 Legislation

Section 17 of the Housing (Scotland) Act 2001 allows a landlord to recover possession of a house that they believe has been abandoned by the tenant. Where the landlord has reasonable grounds for believing that a tenant has abandoned the tenancy landlords are allowed to enter the house at any time to make the house and any fixtures and fittings secure against vandalism.

Section 18 sets out the procedures, which must be followed by a landlord wishing to recover possession of an abandoned house. The landlord must:

- give four weeks notice in writing that it intends to terminate the tenancy
- make sufficient enquiries to satisfy itself that the house is unoccupied and that the tenant has no intention of re-occupying it

- serve a further notice on the tenant, which brings the tenancy to an immediate end and allows the landlord to take possession of the house without further proceedings

By 'sufficient enquiries' it is expected that the landlord makes reasonable enquiries of family, neighbours, employers, health boards, police, schools etc., to establish if someone has abandoned the tenancy.

3.3 Taking possession of a property

Before taking repossession of an abandoned property every attempt will be made by the Co-operative to satisfy itself that the house is unoccupied and that the member has no intentions of re-occupying it.

If staff have reasonable grounds for believing that a property has been abandoned they can forcibly enter the house to make it secure. Staff will give the member seven-days written notice stating they believe their home to be abandoned. If the member does not respond within this period staff will serve an official twenty-eight day notice. If there is still no contact from the member at the end of this period the Co-operative has a legal right to end the tenancy immediately after this notice expires.

Once the Co-operative is in legal possession of the property the locks will be changed; an inventory taken of any personal belongings left, including photographs of any significant damage to the property, and outbuildings such as a garage or garden shed.

The former-member has the right to make an application to the Sheriff against the repossession within six months from the day after the 28-day notice expires.

Any personal belongings estimated to have a value sufficient to cover the cost of storage, plus any rent or other charges that the former member owes will be kept in safe custody for a set period of time. If the belongings have insufficient value to cover the cost of storage and rental costs the member will be contacted in writing at their last known address and given the opportunity to collect or have their personal belongings delivered, provided they pay all costs due. In either situation described, if the personal belongings are not claimed they will be disposed of.

Charges billed to the former member will be based on the following:-

- storage calculated on the number of days personal belongings are stored, multiplied by the daily rent of the property
- the cost of uplifting the belongings from the abandoned property
- the cost for disposing of any personal belongings
- re-chargeable repairs arising from the abandoned property
- rent arrears accrued at the abandoned property

- legal or other costs accrued at the abandoned property(e.g. bank charges)

Charges will start from the first day following the last day of the 28-day notice period, for example, if the termination notice ends on 31 January, charges will start from 1 February.

If personal belongings are considered good quality but small in number (e.g. pots and pans) they will be kept until there is sufficient quantity of items to sell. Any money made in these circumstances will be respectively credited to each former member's account. If personal belongings are un-sellable these will be offered to charity before they are destroyed.

A written appeal from a former member requesting they do not pay the charges incurred will be given full consideration and each case assessed on its individual merits.

If a former member challenges the action taken by the Co-operative in situations where they have repossessed an abandoned property within the terms of the Abandonment Policy and associated Procedures, the Co-operative refer to the guidelines within the Housing (Scotland) Act 2001, taking the appropriate action and, if necessary, seek further guidance from the Co-operative's lawyers to concluded the matter.

3.4 Terminating a joint tenancy

The Housing (Scotland) Act 2001 introduced new legislation concerning joint tenancies where one partner had abandoned their tenancy.

If the Co-operative has reasonable grounds to believe that a joint member has abandoned their tenancy, that member will be given notification in writing that their interest in the property will be terminated within twenty-eight days. If there is no response from the member at the end of this 28-day notice, and the Co-operative has reasonable grounds for believing that the member has abandoned the property, a second notice will be served which will terminate that joint member's *interest* in the tenancy after a further *twenty-eight* days. Therefore the joint tenant's interest in the tenancy will end *fifty-six days* 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 member's name.

A member who has abandoned their interest in the property has eight weeks to appeal against this decision. If a member appeals, the case will be reviewed and

all facts considered, including whether the Co-operative followed the correct procedures, before any request to re-instate the member's membership of the Co-operative is submitted for approval.

If the member who has abandoned leaves personal belongings in the property, and the remaining member does not want them, the Co-operative has no legal obligation to remove these belongings from the property; this responsibility will lie with the remaining member. However, discretion can be exercised and assistance provided to remove and dispose of the belongings if they are excessive or bulky and the remaining member is unable to dispose of the belongings due to, for example, financial reasons.

A joint member can at any time voluntarily end his or her interest in the tenancy by giving twenty-eight days written notice to the remaining joint member and the Co-operative. This notice will not terminate the tenancy, which will continue in the remaining member's name. If the member wishes to re-instate their tenancy at a later date, this request will be considered in line with the relevant procedure.

3.5 Remaining occupant not a member

If a member abandons their property and leaves behind an occupant(s) over the age of sixteen, who is not a member, the Co-operative will consider each case individually as to what action to take. Each case will be considered on its individual merits, with the decision based on, but not exclusive to:

- the relationship the occupant had with the member abandoning the property
- the length of time the occupant has resided in the property being abandoned
- the size and type of property being abandoned
- membership to the Co-operative being approved

3.6 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 Co-operative property, found to be abandoned, the Co-operative will instigate court proceedings immediately to remove the squatters from the premises and seek legal advice from its lawyers if relevant.

4.0 Training

The Co-operative, through its Internal Management Plan, is committed to training and developing staff and Committee/Board members so that they have a good knowledge of the procedures and systems in place for managing abandoned properties that meets the expectations of members, members of the public, colleagues and external organisations.

5.0 Equal Opportunities

The Co-operative will ensure that in implementing its Abandonment Policy it will not unfairly discriminate against any individual, household or group on the grounds of gender, gender identity or marital status, on race grounds, or on the grounds of disability, age, sexual orientation, language or social origin, other personal attributes, including beliefs or opinions such as religious beliefs or political opinions.

6.0 Monitoring & Reporting

The Housing Management Sub Committee has delegated responsibility from the Committee of Management to monitor the management of abandonments.

It will be the responsibility of the Housing Manager to provide a quarterly report to the Housing Management Sub Committee on the:-

- number of abandonments served;
- number of abandonments completed; and

an annual report on the following key information:-

- **number of abandonment proceedings commenced**
- **number of abandonment proceedings completed**
- **number of abandonment proceedings cancelled**
- **number of proceedings ongoing**
- **reasons for abandonments being cancelled**
- **length of time member held tenancy**
- **age of member when abandoned property**
- **household composition**
- **abandoned property size and type**
- **total debt at time abandoned property repossessed**

The Co-operative's performance will also be measured annually against other Registered Social Landlords' performance management of

abandoned properties, and reported on to the Housing Management Sub Committee.

A register will be kept recording the number of abandoned properties identified. Each property will remain on the register for five years from the date the Co-operative took possession. The register will be made available for inspection by members of the public at all reasonable times.

A record of progress will be kept of each abandoned property to ensure that every stage of the process is followed and completed to the target times set. Every three months the abandonment files will be examined and any irregularities investigated.

7.0 Review

The targets for monitoring the progress of abandoned properties will be reviewed annually, taking into account any legislative or other changes and the realistic ability to reach the targets set based on the previous year's performance.

When reviewing the management of abandoned properties, the following information will be used to improve service delivery by:

- monitoring comments and complaints received from members
- the number of appeals to be re-housed by former tenant members where an abandonment has taken place
- feedback from the Committee of Management; Tenant Management Boards; Sub-Committees and Residents Associations in relation to abandoned properties
- analysing the performance against targets set for managing abandoned properties

Unless recommended through analysis of the abandonment process, feedback from members, a change in Communities Scotland/SFHA best practice guidance or changes in legislation, the Abandonment Policy will be reviewed every three years.

8.0 Legal Framework

In approving and implementing the Abandonment Policy the Co-operative aims to comply with the following legislation and statutory documents:-

- Housing (Scotland) Act 2001

- Schedule 7 Part1 of Housing (Scotland) Act 2001
- Data Protection Act 1998
- Disability Discrimination Act 1995
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Sex Discrimination Act 1975
- Human Rights Act 1998
- Matrimonial Homes (Family Protection) (Scotland) Act 1981
- Scottish Secure and Short Scottish Secure Tenancy Agreement

9.0 References

The following publications have been referred to, to ensure the Abandonment Policy and associated procedures are based on good housing practice:-

- "Performance Standards for Social Landlords and Homeless Functions – COSLA, Communities Scotland and Scottish Federation of Housing Associations (SFHA), 2006 – Activity Standard 1.5 Void Management
- "Housing Management Standards Manual" – Chartered Institute of Housing.
- "Raising Standards in Housing" – Scottish Homes, SFHA.
- Housing (Scotland) Act 2001

10.0 Related Policies and Documents

- Void Policy and procedures
- Complaints Policy and procedures
- Estate Management Policy and procedures
- Allocation Policy and procedures
- Equal Opportunities Policy and procedures
- Internal Management Plan

FIRST DRAFT 20/9/07

SECOND DRAFT 1/11/07