



## Abandonment Policy

If you have difficulty with reading this policy, including any difficulties with sight or hearing, or if you require this document translated into another language, please contact us and we will be happy to provide this information in a format that suits your needs.

# Our Vision, Our Mission, Our Values

## Our Vision

Elderpark Housing will lead the way in delivering outstanding customer services and great places to live.

## Our Mission

To provide quality, affordable homes and excellent services which place a focus on our customers and enhancing our communities.

## Our Values



## Equality and Diversity Statement

Elderpark Housing are committed to ensuring people or communities do not face discrimination or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

This document complies with our Equality and Diversity Policy.

We will regularly review this Policy and consider any equalities implications taking the necessary action to address any inequalities (either directly or indirectly) that result from the implementation of this Policy.

## Executive Summary

### Policy Author

The Housing Manager has developed this policy on behalf of the organisation. It applies to all aspects of our responsibility for dealing with abandoned houses.

### Purpose of the Policy

The Abandoned House Policy aims to ensure that we have an accountable process to identify, record and put in place procedures to recover an abandoned house.

### Aims and Objectives of the Policy

The aims and objectives of the policy are:

- To give clear guidance on the process for dealing with abandoned houses where an abandoned house has been identified.
- To outline the process for investigating and recovering an abandoned house.
- To advise customers of the appeals process.
- To ensure that the process for dealing with abandoned houses is dealt with within the existing legal provisions, regulatory requirements and best practice guidance.

### Legislative and Regulatory Compliance

We will seek to meet all of our legal obligations as set out in the following legislation:

- The Housing (Scotland) Act 2001, section 17 and 20
- Equality Act 2010

In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulator's Regulatory Framework.

- **Outcome 1: Equalities** – *'Social landlords perform all aspects of their housing services so that every tenant and other customers have their individual needs recognised, are treated fairly and with respect, and receives fair access to housing and housing services'*.
- **Outcome 2: Communication** – *'Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and*

*get the information they need about their landlord, how and why it makes decisions and the services it provides’.*

- **Outcome 11: Tenancy sustainment** – ‘Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations’.
- **Regulatory Standard 2** – ‘The landlord is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. In addition, its primary focus is the sustainable achievement of these priorities’.
- **Regulatory Standard 5** – ‘The RSL conducts its affairs with honesty and integrity’.

## Equalities

We will ensure there is a consistent approach in promoting equality and diversity across all areas and this policy will be administered in accordance with this policy.

## Privacy

This document fully complies with General Data Protection Regulations (2018) and once approved will be published on our website to ensure transparency of how we will seek to ensure Equality and Diversity across everything we do.

## Related Policies

Policy Title	Location
Equalities and Diversity Policy	<a href="V:\Elderpark Policy Suite\Governance Policies\G13 Equality and Diversity Policy.pdf">V:\Elderpark Policy Suite\Governance Policies\G13 Equality and Diversity Policy.pdf</a>
Ending a Joint Tenancy Policy	<a href="V:\Elderpark Policy Suite\Housing Management Policies\H11 Ending a Joint Tenancy Policy.pdf">V:\Elderpark Policy Suite\Housing Management Policies\H11 Ending a Joint Tenancy Policy.pdf</a>
Allocations Policy	<a href="V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf">V:\Elderpark Policy Suite\Housing Management Policies\H2 Allocations Policy.pdf</a>
Complaints Handling Policy and Procedure	<a href="V:\Elderpark Policy Suite\Governance Policies\G9 Complaints Handling Policy and Procedure.pdf">V:\Elderpark Policy Suite\Governance Policies\G9 Complaints Handling Policy and Procedure.pdf</a>

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## **1 Introduction**

- 1.1 Elderpark Housing Association is a registered social landlord, established in 1975. We have strived to improve the lives of our residents, create opportunities and build a safe and secure environment. The Association is a 'not for profit' organisation, registered and regulated by the Scottish Housing Regulator and is governed by a voluntary Management Committee of up to a maximum of 15 people who employ a team of staff to manage the Association on a day-to-day basis.
- 1.2 The Management Committee is responsible for approving this Policy, and for overseeing its implementation. The Chief Executive and Management Team have operational responsibility for policy implementation, and for reporting to the Management Committee on areas relevant to abandonments.

## **2 Purpose of Policy**

- 2.1 The Abandonment Policy aims to ensure that we have an accountable process to identify, record and put in place procedures to deal with abandoned properties, in accordance with legal provisions and contractual terms contained within the tenancy agreement.
- 2.2 This policy is written in accordance with our Equality and Diversity Policy to ensure that tenants and residents in our community do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.

## **3 Aims and Objectives**

- 3.1 This policy is a key document within the Association and its aims and objectives are to:
  - To give clear guidance on the process for dealing with occasions where an abandoned house has been identified
  - To outline the process for investigating and recovering an abandoned house
  - To advise customers of the appeals process
  - To ensure that the process for dealing with abandoned houses is dealt with within the existing legal provisions, regulatory requirements and best practice guidance

## 4 Legal and Regulatory Framework

4.1 We will seek to meet all of our legal obligations as set out in the following legislation:

- The Housing (Scotland) Act 2001
- Equalities Act 2010
- General Data Protection Regulations 2018

4.2 In addition, we will meet the outcomes and standards contained within the Scottish Housing Regulators Regulation Framework.

- **Outcome 1: Equalities** – *‘Social landlords perform all aspects of their housing services so that every tenant and other customers have their individual needs recognised, are treated fairly and with respect, and receive fair access to housing and housing services’.*
- **Outcome 2: Communication** – *‘Social landlords manage their businesses so that tenants and other customers find it easy to communicate with their landlord and get the information they need about their landlord, how and why it makes decisions and the services it provides’.*
- **Outcome 11: Tenancy sustainment** – *‘Tenants get the information they need on how to obtain support to remain in their home; and ensure suitable support is available, including services provided directly by the landlord and by other organisations’.*
- **Regulatory Standard 2** – *‘The landlord is open about and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. In addition, its primary focus is the sustainable achievement of these priorities’.*
- **Regulatory Standard 5** – *‘The RSL conducts its affairs with honesty and integrity’.*

## 5 Abandonment

5.1 Under Section 17 of the Housing (Scotland) Act 2001 we can recover a property where it has reasonable grounds for believing that the house is empty and that the tenant does not intend to occupy it as her/his only or principal home.

5.2 Where we have reasonable grounds for believing that a joint tenant is not occupying the house and does not intend to occupy it as their only or principal home, the property can be recovered under sections 17 to 21 of the Housing (Scotland) Act 2001. This is detailed in our Ending a Joint Tenancy Policy and Procedure.

- 5.3 Section 2.1 of our Tenancy Agreement states that “*You must take entry to the house, occupy and furnish it and use it solely as your only or principal home*”. Where we have reasonable grounds for believing that you have abandoned your house, we may forcibly enter the house and make it secure.
- 5.4 We will give 4 weeks written notice when we believe that you have abandoned your house. At the end of this period if we believe that you have abandoned your house, we will repossess it by service of another notice.
- 5.5 The 2001 Act also confirms that where a landlord has reasonable grounds for believing that a tenant has abandoned the tenancy, the landlord “may enter the house at any time for the purpose of securing the house and any fittings, fixtures or furniture against vandalism”.

## **6 Establishing if a House has been abandoned**

- 6.1 Where we have reasonable grounds for believing that a house is unoccupied and the tenant does not intend to occupy it as their only or principal home, we can serve the first abandonment notice (*The notice to terminate the Scottish Secure Tenancy*). Prior to serving the first abandonment notice we will:
- Attempt to contact the tenant by all means available
  - Be mindful that we have a duty of care to tenants and residents who reside in the vicinity of the house, and where a failure to respond may result in increased vulnerability
  - Carry out all the necessary checks as per the abandonment checklist, within the abandonment procedures, such as:
    - Checking with neighbours
    - Checking with the Housing and Homelessness Lead at Glasgow City Health and Social Care Partnership
    - Activity/non-activity on the rent account
    - Check the visual appearance of the property
    - Record no responses in relation to correspondence
    - Attempt to contact any emergency contacts/friends/relatives
- 6.2 Where a third party is residing in the property the abandonment notice will not be served. Likewise, if a spouse or co-habitee is residing in the property they may have rights under the Matrimonial Homes (Family Protection) (Scotland) Act 1981.
- 6.3 Once we have carried out all necessary checks and are reasonably satisfied that the property is unoccupied, the first abandonment notice will be served on the tenant. The abandonment notice will be served by hand-delivering it at the tenant’s proper address.
- 6.4 Housing staff will notify other departments within the Association that an abandonment notice has been served.



## **7 Abandoned Property Notices**

- 7.1 There are two separate notices that we will serve before the tenancy is ended and the house recovered. The notice to terminate the Scottish Secure Tenancy (1st abandonment notice) and the termination of the Scottish Secure Tenancy (2nd abandonment notice). The first abandonment notice will:
- State that the landlord has reason to believe that the house is unoccupied and that the tenant does not intend to occupy it as their home.
  - Require the tenant to inform the landlord in writing within 4 weeks of service of the notice if the tenant intends to occupy the house as their home.
  - Inform the tenant that, if it appears to the landlord at the end of the 4 weeks that the tenant does not intend to occupy the house; the tenancy will be ended with immediate effect by service of a second notice. With the exception of ending a joint tenant's interest in the tenancy, where the second notice will be served 8 weeks after delivery of the first notice.
  - Detail the procedure for dealing with property within the house.
- 7.2 Inquiries will continue from service of the first notice to the second notice which terminates the Scottish Secure Tenancy. Accurate records of all inquiries will be recorded on Capita and INVU, to ensure that we have acted reasonably and in accordance with legal provisions.
- 7.3 Once the tenancy is terminated by service of the second notice, the house will be processed for re-let in accordance with our Allocation and Void Management Policy and Procedures.

## **8 Security Measures**

- 8.1 We are entitled to enter the property at any time to secure the house and its contents against possible vandalism. This includes forcing entry to the house, for example, where windows are open or broken or where the property is at risk from the elements or vandalism. Where the Housing Officer is required to secure the house in this way, another staff member will be present. At this time, Housing staff will make a decision on the vulnerability of the property and carry out the appropriate checks and instruct works, for example, arrange a drain down of water or make the property lock fast.

## **9 Forcing Entry to a Property Believed to be abandoned**

- 9.1 Before forcing entry to a property we will ensure that the following has been done:
- All attempts have been made to contact the tenant and residents between serving the first abandonment notice and issuing the second notice as per the abandonment procedure.
  - Ensure that there are 4 clear weeks between the first and second notice with the exception of ending the interest of a joint tenant (8 weeks).
  - Complete the service delivery notice and ensure that there is a witness present.
  - Complete an inventory of all items left in the property along with photographs.

- Remove all property remaining in the tenancy as per the abandonment procedure
- Raise a rechargeable repair where there is damage to the property.

## **10 Termination of Tenancy**

10.1 The tenancy is ended after service of the second notice (*Termination of the Scottish Secure Tenancy*) provided:

- A proper notice to terminate the tenancy has been served; and
- We have made such inquiries to be satisfied that the house is unoccupied and that the tenant does not intend to occupy it as her/his home.

## **11 Cancellation of the Abandonment Notice**

11.1 Where the tenant contacts us within 4 weeks, either verbally or in writing, and states their intention to occupy the house as their home, the abandonment procedure will be cancelled. This will be followed up by a visit by Housing staff to confirm that the tenant is occupying the property.

11.2 Where the tenant returns to live in the property during the abandonment period but fails to advise us either verbally or in writing, the abandonment procedure will be cancelled. The relevant Association departments previously notified of the abandonment will be informed of the cancellation. The Housing Assistant/Officer will visit the tenant to ascertain reasons for leaving the house and to remind the tenant of the importance of advising us when the house is unoccupied for a period of 2 weeks or longer.

## **12 Property Found in Abandoned Houses**

12.1 In accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002 if there is property in the house, Housing staff will serve notice on tenant stating that:

- That if the property is not collected by the tenant from the place specified on or before the date given in the first notice, the landlord may dispose of the property. The date specified in the notice for collection/disposal of property will not be less than 28 days from the service of first notice and not earlier than the date which we repossess the house.
- Where the tenant has not collected the property from the date of repossession, we may store the items for 6 months from the date of repossession. This will only apply where we deem the property value to exceed any rent owing and the cost of storage and sale of the property.
- Property found in the property will not be disposed of until the house has been repossessed.

## **13 Monitoring of the Policy**

- 13.1 We have a statutory duty to complete the Annual Return on the Charter (ARC) to the Scottish Housing Regulator (SHR) in relation to the number of abandonments carried out in the reporting year.

## **14 Complaints and Appeals**

- 14.1 Complaints about the implementation of this policy will be dealt with through our Complaints Handling Policy and Procedure.
- 14.2 Any tenant aggrieved by termination of the tenancy under section 18 of the Housing (Scotland) Act 2001 has the legal right to appeal to the Sheriff Court under section 19, within 6 months from the date the tenancy ended.
- 14.3 Any joint tenant aggrieved by termination of their interest in the tenancy under section 20 of the Housing (Scotland) Act 2001 has the legal right to appeal to the Sheriff Court under section 21, within 8 weeks from the date the tenancy ended.
- 14.4 The court will either grant a declarator that the notice is of no effect (where the house has not been re-let), or direct the Association to make other suitable accommodation available where the house has been re-let, if the appeal is upheld.

The aforementioned will apply whenever we:

- Have not served a valid abandonment notice.
- Did not have reasonable grounds for finding the house to be unoccupied/or that the tenant did not intend to occupy it as her/his home, or
- Acted in error in finding that the tenant did not intend to occupy the house as their home and the tenant had reasonable cause by reason of illness or otherwise for failing to notify us of their intention to occupy.

## **15 Review**

- 15.1 We will periodically carry out checks to ensure that the procedure in relation to abandonments is being followed.
- 15.2 This policy will be reviewed every three years or changed as legislative and good practice dictates.

## Appendix 1 Equality Impact Assessment

<b>Name of Policy to be assessed</b>	Abandonment	<b>New Policy or revision of existing?</b>	Revision of existing policy
<b>Person(s) responsible for assessment</b>		Elaine Somerville	
<b>Briefly describe the aims, objectives and purpose of the policy.</b>	<p>This Policy is a key document within the Association and its aims and objectives are to:</p> <ul style="list-style-type: none"> <li>• To give clear guidance on the process for dealing with abandoned houses occasions where an abandoned house has been identified</li> <li>• To outline the process for investigating and recovering an abandoned house</li> <li>• To advise customers of the appeals process</li> <li>• To ensure that the process for dealing with abandoned houses is dealt with within the existing legal provisions, regulatory requirements and best practice guidance</li> </ul>		
<b>Who is intended to benefit from the Policy? (e.g. applicants, tenants, staff, contractors)</b>	The policy will benefit the Association as it will repossess properties for use that have been abandoned.		
<b>What outcomes are wanted from this Policy? (e.g. the measurable changes or benefits to members/ tenants / staff)</b>	<p>The outcomes of this Policy are:</p> <ul style="list-style-type: none"> <li>• To give clear guidance to staff and tenants on the process for dealing with abandoned properties by within the existing legal provisions and best practice guidance</li> </ul>		
<b>Which groups could be affected by the policy? (note all that apply)</b>			
<b>Age</b>		<b>Disability</b>	
<b>Gender reassignment</b>		<b>Marriage and Civil Partnership</b>	
<b>Pregnancy and Maternity</b>		<b>Race</b>	
<b>Religion or Belief</b>		<b>Sex</b>	
<b>Sexual Orientation</b>			
<b>If the policy is not relevant to any of the equality groups listed above, state why and end the process here.</b>			
The recovery of abandoned properties affects all types of tenants and groups.			
<b>Have those affected by the Policy / decision been involved?</b>			
Tenants were previously notified of Policy changes through newsletters and our website. Our Policy is available on our website is available for perusal.			

Describe the likely positive or negative impact(s) that the Policy could have on the groups identified above.	Positive Impact(s)	Negative Impact(s)
	None	None
<b>What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts)</b>	The Association has a robust process in place for ensuring that any personal data is secure.	

Signed:	<i>Elaine Somerville</i>
Dated:	10/8/21

## Appendix 2 GDPR Impact Assessment

<b>Name of Policy to be assessed</b>	Abandonment	<b>New Policy or revision of existing?</b>	Revision of existing policy
<b>Person(s) responsible for assessment</b>		Elaine Somerville	
<b>Briefly describe the aims, objectives and purpose of the Policy.</b>	<p>This Policy is a key document within the Association and its aims and objectives are to:</p> <ul style="list-style-type: none"> <li>• To give clear guidance on the process for dealing with abandoned houses occasions where an abandoned house has been identified</li> <li>• To outline the process for investigating and recovering an abandoned house</li> <li>• To advise customers of the appeals process</li> <li>• To ensure that the process for dealing with abandoned houses is dealt with within the existing legal provisions, regulatory requirements and best practice guidance</li> </ul>		
<b>Which type of data will be used by implementation of this Policy? (e.g. personal, sensitive or special category)</b>	Personal data is used through implementation of this policy.		
<b>What outcomes are wanted from this Policy? (e.g. necessary to meet legal obligations)</b>	That any abandonments are carried out within the legal provisions and contractual terms contained within the tenancy agreement.		
<b>Which groups could be affected by the Policy? (note all that apply)</b>			
<b>Tenants</b>	x	<b>Committee</b>	
<b>Employees</b>		<b>Contractors</b>	
<b>If the Policy is not relevant to any of the data groups listed above, state why and end the process here.</b>			
<b>Have those affected by the policy / decision been involved?</b>			
Our abandoned policy is available to peruse through our website and is covered at the sign up process. Tenants have previously been advertised through our newsletters.			
<b>Describe the likely positive or negative impact(s) that the policy could have on the groups identified above.</b>	<b>Positive Impact(s)</b>		<b>Negative Impact(s)</b>
	None		None

<b>What actions are required to address the impacts arising from this assessment? (This might include: additional data, putting monitoring in place, making adjustments, taking specific action to mitigate any potentially negative impacts)</b>	The Association has robust systems and checks in place to ensure that personal data remains confidential.
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Signed:	<i>Elaine Somerville</i>
Dated:	10/8/21