

# THE MORAY HOUSING PARTNERSHIP

## Abandoned Property Policy

Date Agreed: 26<sup>th</sup> May 2011

### 1. Scope of the Policy

- 1.1 This policy encompasses activity in relation to abandoned property. Abandoned property is defined as being where a tenant no longer occupies the house as his or her principal home and has failed to inform the Moray Housing Partnership.
- 1.2 In order to maximise the use of the available properties the Partnership recognises that it must be able to identify abandoned properties as soon as possible and ensure they are made available to let at the earliest opportunity whilst acknowledging the tenancy rights of tenants.
- 1.3 The Moray Housing Partnership will ensure the promotion of equal opportunities by publishing information and documentation in different languages and other formats such as large print, audio tape and Braille, as required.
- 1.4 The Moray Housing Partnership commits itself to fairness and equality for all, operating with professionalism, integrity and openness and a belief that everyone is entitled to be treated with dignity, respect and fairness, regardless of their age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation, or any other similar or related factors. The Partnership aims to ensure that policies and procedures do not knowingly create an unfair disadvantage for anyone, directly or indirectly.

### 2. Context

- 2.1 The Abandoned Property Policy is set in the context of the Performance Standards for social landlords and homelessness functions published jointly by the Scottish Housing Regulator, COSLA and the SFHA in 2007. The Standards are organised into 20 Guiding Standards and 33 Activity Standards

2.2 Guiding Standards are fundamental to the way social landlords and regulated services behave and conduct their business. They are not 'stand-alone' Standards. Instead, they will be assessed in terms of how well they inform all aspects of the business, and how well they are met in each of the Activity Standards relating to:

- Housing management
- Property management
- Property development (developing organisations only)
- Homelessness
- Services for owners
- Services for Gypsy Travellers (local authorities only)
- Wider action (RSLs only)

**AS1.3 *Tenancies:* We offer the most secure form of tenancy compatible with the purpose of the housing. The agreement makes clear the rights and duties of the tenant and the landlord. We act to uphold these rights and duties in a fair and responsible manner.**

**GS2.3 *Sustainability:* We ensure that our policies and actions are underpinned by our commitment to sustainability. We consider the impact we can have in improving the economic, social and environmental circumstances of the wider community.**

### **3. Principles and Objectives**

3.1 The overall aim of the Abandoned Property Policy is to re-let properties as quickly as possible in order to minimise rent loss, and both the social and environmental impact resulting from abandoned houses.

3.2 The specific objectives of the Abandoned Property Policy are to:

- determine whether a property is abandoned, as early as possible;
- minimise the time a property is unoccupied;
- minimise the cost of storing belongings;
- minimise the cost of repairs; and
- protect the rights of tenants by ensuring that thorough investigations are made regarding occupancy before commencing abandoned property proceedings.

3.2 The principles underpinning the Abandoned Property Policy are:

- to provide a clear statement of the level of service and standards to which the Partnership will work;
- the Partnership will implement detailed procedures and agreed practices;
- the policy will be supported by staff training to ensure that staff are equipped to carry out the roles expected of them; and

- to ensure that tenants and service users are kept informed during the void management process.

#### **4. Identifying Abandoned Properties**

4.1 Legislation specifies that in order for MHP to effectively implement the Procedure for Abandoned Properties, the staff member must have reasonable grounds for believing that:

- (a) the house is unoccupied; and
- (b) the tenant does not intend to occupy it as the tenant's home (Housing (Scotland) Act 2001, Section 17(1)).

4.2 In establishing if a property has been abandoned staff must have regard to the welfare, safety and rights of tenants. All staff, in the course of their duties, will be alert to any properties that have the appearance of being empty and will complete rigorous checks on identified properties to establish if they have been abandoned. The checks that are most appropriate will be determined by the individual circumstances of each case.

4.3 In the event that the staff member has grounds for believing that a sole tenant does not intend to occupy the property as her/his only or principal home, the Housing Officer must investigate using 'best endeavours', and establish if there are any other persons occupying the property. For example, a spouse or partner of the tenant. If so, the policy must not be implemented and further investigation must take place.

4.4 In accordance with legislation, the Partnership is entitled to enter the property at any time, by force if necessary, in order to secure the property and any fittings, fixtures or furniture against vandalism, frost damage, or water penetration where it is reasonable to believe that the property has been abandoned.

4.5 When staff are satisfied that the house is unoccupied without reasonable cause and that the tenant does not intend to occupy it, an Abandoned Property Notice under subsection (1) Section 18 of the Housing (Scotland) Act 2001 will be served. This Abandoned Property Notice:

- states that the Partnership has reason to believe that the house is unoccupied and that the tenant does not intend to occupy her/his home;
- requires the tenant to inform the Partnership in writing within 28 days of the service of the notice if the tenant intends to occupy the house as her/his only or principal home; and

- informs the tenant that, if it appears to the Partnership at the end of the 28 days that the tenant does not intend to occupy the house, the tenancy will end with immediate effect by service of a second Abandoned Property Notice.

## **5. Taking Possession of A Property**

- 5.1 If staff have reasonable grounds for believing that a property has been abandoned they may forcibly enter the house to make it secure. Staff will also give the tenant a minimum of 28 days notice stating they believe their house to be abandoned. If the tenant does not respond within this period staff may serve a second Notice under subsection (2) of Section 18 of the Housing (Scotland) Act 2001 which brings the tenancy to an immediate end and allows the landlord to take possession of the house without further proceedings.
- 5.2 If the Partnership repossesses the house the locks will be changed, an inventory taken of any personal belongings left and photographs taken of any significant damage to the property, including any outbuildings such as a garage or garden shed.
- 5.3 The tenant has the right to make an application to the Sheriff against repossession within six months from the day after the 28-day notice ends.
- 5.4 Where there are any belongings left in the property, action in accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002 will be taken.
- 5.5 A Notice will be served on the tenant by recorded delivery, at their last known address, or by leaving the notice for the tenant at that address, to tell them that the property is available for collection or delivery (on receipt of payment of the costs incurred in complying with the order), and that if the property is not collected on or before the date specified in the notice, (a date no less than 28 days from the date of service of the notice and not before the date of repossession of the house), it may be disposed of in accordance with the Order.
- 5.6 Where the belongings have not been collected by the date specified in the notice, the items shall be stored for a period of 6 months from the date on which the dwelling was repossessed. After this time the items may be sold and the proceeds used to pay any costs incurred in complying with the Order and if there is a remainder, after the deduction of costs, this may be paid towards any arrears of rent.

The charges made to the former tenant will be based on the following:

- Storage based on the number of days the belongings are stored multiplied by the daily rent of the property
- The cost of uplifting the belongings from the property

- The cost for disposing of any belongings
- Any re-chargeable repairs
- Any rent arrears accrued
- Any legal or other costs (e.g. bank charges)

The charges will start from the first day following the last day of the 28 day notice ie termination notice ends 31 January charges start 1 February. If the belongings are considered good quality but small in number (eg pots and pans) they will be kept until there is sufficient quantity of items to sell. Any money made in these circumstances will be allocated accordingly to each former tenant's account. If goods are un-sellable these may be offered to charity before they are destroyed.

## **6. Terminating a Joint Tenancy**

- 6.1 If the Partnership has reasonable grounds to believe that a joint tenant has abandoned the tenancy it can give that tenant 28 days notice informing him/her that their interest in the property will be terminated. If there has been no response from the tenant at the end of this notice and the Partnership has reasonable grounds for believing that this tenant has abandoned the property a second notice may be served which will terminate that joint tenant's interest in the tenancy after 56 days. The tenant has 8 weeks to appeal against this decision. This second notice will not terminate the tenancy, which will continue.
- 6.2 If the tenant who has abandoned leaves personal belongings behind and the remaining tenant does not want them the Partnership has no legal obligation to remove these belongings from the property. This responsibility will lie with the remaining tenant. However, discretion can be exercised, and assistance provided to remove and dispose of the belongings, if they are excessive and/or bulky, on the remaining tenant's behalf where he/she is unable to dispose of the belongings due to (for example) financial reasons.
- 6.3 A joint tenant may at any time end his or her interest in the tenancy by giving 28 days written notice to the remaining joint tenant and the Partnership. This notice will not terminate the tenancy.

## **7. Service Delivery and Communication**

- 7.1 The Partnership will treat tenants and other clients with respect and will be responsive to their views and priorities. The Partnership will provide information and advice on the Abandoned Property Policy and procedures and deal fairly and efficiently with anyone who appeals against, or complains about, any of its decisions or activities. It is made clear, in written documents and verbally, that those who have a valid complaint about the service; information or advice they have received from the Partnership can complain to the Scottish Public Services Ombudsman

## **8. Monitoring the Abandonment Policy & Procedure**

- 8.1 A record of progress will be kept, with target times set, of each abandonment to ensure that every stage of the process is followed and completed. Every 3 months the abandonment files will be examined and any irregularities investigated.
- 8.2 A register of property will be kept where abandonment has occurred. A note will be made next to those properties where belongings were found. Each property will remain on the register for 5 years from the date the Partnership took possession. The register will be made available for inspection by members of the public at all reasonable times.
- 8.3 The number of abandonment's in any one financial year will be reported in the Annual Performance and Statistical Returns. The Housing Manager will make a further report on the number of abandonment's accompanied with any other relevant information to the Committee of Management within 3 months from the end of the financial year.

## **9. Review of Policy and Setting Targets**

Unless recommended through analysis of the abandonment process, feedback from tenants, a change in Communities Scotland/SFHA best practice guidance or changes in legislation, the Abandoned Property Policy will be reviewed every 3 years. Likewise the targets for monitoring the progress of abandonment will be reviewed every 3 years taking into account any changes from the above sources and the realistic ability to reach the targets set based on the previous 3 years performance.