



## POLICY

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### Abandonment

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Policy Reviewed November 2023

# Wellhouse - The Place to Be

Policy Created	November 2020, Reviewed November 2023
Date of Next Review	November 2026

**The policy is available on the Association's website. Customers will be provided with a copy of this policy on request. We will provide this policy in specific formats as requested, i.e. tape, Braille or another language.**

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### **Linked Policies/Procedures**

1.	Openness and Confidentiality
2.	Common Allocation Policy
3.	Complaints, Compliments and Comments
4.	Voids Policy
5.	Income Collection, Debt Recovery and Write Off Policy
6.	Rent Management Policy
7.	Data Protection Policy
8.	Repairs and Maintenance Policy

## 1. Vision and values

### **Wellhouse – the Place to Be.**

This simple statement is our vision of Wellhouse as an attractive place where people feel happy and safe, benefit from having a good home and an attractive environment and feel proud to be part of a vibrant community.

We believe that our values of **Trust, Honesty, Integrity, Excellence, Accountability and Sustainability** supported by a comprehensive policy framework will help make our vision a reality.

## 2. Governance

Wellhouse HA is a community controlled Registered Social Landlord and is managed by a group of local people who are elected onto the Management Committee. We may co-opt other people onto the Management Committee from time to time where we feel we need specialist support. Their role is to make sure that the Association is well run, meets the needs of the local area and is responsive to what is important to local people.

The Management Committee appoints senior staff, agrees all the Association's policies and takes all the key decisions. The Director and the senior team support the Committee in these responsibilities.

## 3. Policy Aims

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

## 4. Equal Opportunities and Human Rights Statement

We aim to ensure that all services, including the delivery of this policy, provide equality of opportunity.

We will respond to the different needs and service requirements of individuals. We will not discriminate against any individual for any reason, including age, disability, gender re-assignment, marriage, civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation, or other status.

## 5. Scottish Housing Charter

The Scottish Government's Social Housing Charter came into force in April 2012 and was reviewed in 2019. The Charter sets out the standards and outcomes that Registered Social Landlords should achieve.

There are 5 outcomes under the Charter that are especially relevant to our rent management policy, these are:

### **Outcome 1 Equalities**

Social landlords perform all aspects of their housing services so that:

- every tenant and other customer have their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services

### **Outcome 2 Communication**

Social landlords manage their business 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 6 Estate Management, anti-social behaviour, neighbourhood nuisance and tenancy disputes**

Social landlords, working in partnership with other agencies, help to ensure as far as reasonably possible that:

- tenants and customers live in well-maintained neighbourhoods where they feel safe

### **Outcome10 Tenancy Sustainment**

Social Landlords ensure that:

- Tenants get the information they need on how to obtain support to remain in their homes and ensure suitable support is available, including services provided directly by the landlord and other organisations.

### **Outcome 13 Value for Money**

Social Landlords manage all aspects of their business so that:

- Tenants, owners and other customers receive services that provide continually improving value for the rent and other charges they pay.

## **6. Legislation**

The following legislation is relevant to this policy:

- The Housing (Scotland) Act 2014
- The Housing (Scotland) Act 2001 & 2010
- Equality Act 2010
- Data Protection Act 2018

- Human Rights Act 199
- Homelessness etc. (Scotland) Act 2003

## 7. The Policy

### 1. Introduction

The purpose of this policy is to outline the processes that should be followed when dealing with abandoned properties. The Abandonment Policy will allow the Association to ascertain whether the house is being occupied / unoccupied and that the tenant is using the property as their “Principal Home”. This is necessary to enable the Association to recover possession of the property and take the necessary steps to protect the property.

This policy is compiled in accordance with the procedure outlined in the Housing (Scotland) Act 2001, particularly Sections 17- 21 and the Scottish Secure Tenancies (Abandoned Property) Order 2002.

### 2.0 POLICY STATEMENT

The Association will endeavour to identify abandoned properties at the earliest possible stage.

A property will not be treated as abandoned until the Association is satisfied that all appropriate checks have been carried out (**Appendix 1 attached**).

In the event that attempts to contact the tenant reveal that the tenant has died, reference should be made to the Succession Policy and the procedure on dealing with the Death of a Tenant.

Once it has been established that the property may be abandoned, the Housing Officer will decide if the property or surrounding properties are at risk, for example from vandalism, weather or frost damage, and if so, an emergency forced entry will be arranged. A lock change will be necessary following any forced entry. Details of where new keys can be obtained will be attached to the door of the property. Details will also be provided to the Local Authority’s out-of-hours homelessness service. If the property is not considered to be at risk, no forced entry will be made at this time. In all cases, the appropriate abandonment notice will be served.

An Abandonment Notice (**Appendix 2 attached**) will be served. This gives the tenant 28 days to respond to the Association and to confirm, in writing, that it is their intention to occupy the house as their only or principal home. Notices will be served separately on each joint tenant. Housing Services will advise the Assets and Maintenance Team that the Abandonment Notice has been served. If a tenant responds a house visit should be arranged to verify that the house is being used as the tenant’s principal home. Meter readings should be taken as evidence.

If no contact is made within the 4-week period, the Association will proceed by serving a further notice (**Appendix 3 attached**) bringing the tenancy to an end immediately.

Repossession should be taken the next working day to allow the full 28 days (as required by law) to expire before repossession.

At any time – either in advance of, or after, termination of the tenancy, when entry is gained an inventory of all home contents (if any) will be taken by one and witnessed by one other member of staff (**Appendix 4 attached**)

Photographs must be taken to document items and condition and attached to the tenant's electronic file.

As required by the Scottish Secure Tenancies (Abandoned Property) Order 2002 we will take into our possession and safekeeping any property found within the house and return it to the tenant on payment of any sums due to us by the tenant, including rent arrears, rechargeable repair costs, forced entry costs and the costs of storage, if the following condition is met:

***This property must be, in the opinion of the Housing Manager, capable of being sold at the end of the 6-month storage period for at least the costs of storage and any rent arrears due by the tenant.***

The high costs of removal and storage, and the low value of items at disposal means that only very rarely will items be removed and stored. If items are stored, this must be at a facility within the Association's safekeeping and control, or with a contractor approved for storage, providing safe, secure storage and insurance during the period of storage.

Any property, the value of which would not exceed the costs as set out at above, will be disposed of immediately. This decision may be taken by the Housing Officer responsible for managing the tenancy.

The Association will maintain a register of houses in which property has been found, whether this property is stored or not. This will be available for inspection by members of the public at all reasonable times.

In the event of the former tenant, whether sole or joint, disputing the action taken by the Association to terminate the tenancy, then he/she may raise proceedings by way of a summary application in court within 6 months of the date of termination.

### **3 Joint Tenants**

Section 20 of the Act gives landlords the ability to take action to end a joint tenant's interest in the tenancy where they believe that the joint tenant has abandoned the tenancy. The Association must serve a notice on the joint tenant (**Appendix 6**):

- a) where we have reason to believe the abandoning tenant is not occupying the house and does not intend to occupy the house;
- b) where similar to the normal abandonment procedure the joint tenant is required to confirm, in writing, within four weeks of serving the notice if the abandoned tenant intends to occupy the house;

c) and inform the abandoning tenant that their interest in the tenancy will be brought to an end if the Association believes that the tenant does not intend to occupy the property.

At the end of the 28 day period where the Association's enquiries lead it to believe that the tenant does not intend to occupy the property, a further notice must be served informing the tenant that their interest in the tenancy will come to an end on a date 28 days or later after the serving of this second notice (full 56 days should have passed from servicing of the first notice) (**Appendix 7**)

All notices should be copied to the remaining joint tenants.

#### **4. Serving of the Notices**

There are two notices that Landlords are required to serve on a tenant before the tenancy can be ended and the property recovered. The Notice to Terminate the Scottish Secure Tenancy and the Termination of Scottish Secure Tenancy. The Association will continue to try to contact the tenant in the period between the serving of the abandonment notices as part of our on-going efforts to trace the tenant.

All notices must be served on the tenant at the address that appears to be abandoned and should be hand delivered by **TWO** members of staff.

After serving the Notice both officers should complete the certificate of delivery form (**Appendix 5**). These along with a copy of each notice and certificate of delivery should be scanned onto the electronic house file and also a hard copy should be filed in the house file. The Housing Officer should update the abandonment register.

#### **5.0 Tenant's Recourse to Court**

Where a tenant is aggrieved by the termination of tenancy under section 18 of the Housing (Scotland) Act 2001 they can raise proceedings under Section 19 in the Sheriff Court within six months of the termination date. Detailed records must therefore be kept of all checks carried out and notices delivered.

If the Sheriff finds that the Association

- a) failed to comply with the provisions of the Act or
- b) did not have reasonable grounds for finding that the dwelling house was unoccupied the Sheriff can order that the Scottish Secure Tenancy continue. Where the house has been re-let by the Association the Sheriff will instruct the Association to provide other suitable accommodation. Suitable accommodation is defined in Part 2 of schedule 2 of the Act.

Where a joint tenant is aggrieved by the termination of their interest in the tenancy, they can also raise proceedings under Section 21 in the Sheriff Court, within eight weeks from the termination date.

Where the Sheriff finds the Association

- a) failed to comply with the provisions of the Act or



b) did not have reasonable grounds for finding that the tenant had abandoned the property or  
c) the landlord was in error and the tenant had good reason, such as illness, for failing to notify the Association the court must rule the notices served by the Association as not valid  
the Sheriff can order the Association to reinstate the tenant or where it is unreasonable to do this the court must direct the landlord to provide suitable alternative accommodation. Again, suitable accommodation is defined in Part 2 of schedule 2 of the Act.

## **10. Consultation**

We aim to deliver excellent services, which respond to local needs and reflect what is most important to our customers.

To do that we need our customers to tell us how well our policy is working and help us to make the changes which will improve it. In line with our Customer Engagement and Participation Policy:

- We make it easy for customers to give us their comments and views - face to face, by telephone, e-mail, on line or in a letter.
- We commission formal independent tenant satisfaction surveys on a continuous monitoring basis carried out every three months.
- We consult our Customer Opinion Panel
- We publish the targets we set
- We publish how we have performed against those targets

We use customer feedback to review our policies and talk to customers about the changes we are making.

## **11. Complaints**

We have a separate complaints policy and procedure. Leaflets and copies of the complaints procedure are available from the Association's office and on our website. We also provide information on how our customers can make a complaint to the Scottish Public Services Ombudsman (4 Melville Street, Edinburgh EH3 7NS, telephone, 0800 377 7300) and how to contact the Scottish Housing Regulator.

The Ombudsman will not normally deal with complaints unless customers have followed the Association's complaints' procedure

## **6.0 Reporting, Audit and Review**

The Committee will be provided with performance statistical information on the abandonment process in the housing management reports.

This Policy will be reviewed in 3 years, to take account of: -

- a) Legislative, regulatory and good practice requirements
- b) Association performance and the views of tenants and staff

## CHECKLIST FOR USE WITH ABANDONED PROPERTIES, POWERS OF ENTRY AND BOARDING UP PROCEDURES

Use this checklist to keep a written record of actions taken. Note the date and time of visits or phone calls, names of contacts and any commitments made by others, and initial any entry on the form so that it is clear who has carried out the check(s). Please note that not all checks may be applicable to all tenants. Housing Officers should only use those which are appropriate and strike through as “not applicable” where necessary.

Tenant Name		Tenant Reference	
Joint Tenant (if applicable)		Date notified of possible aband.	
Address			
Last known tel no		Email address	
NOK Name		NOK address	
NOK tel no			

Detail of check	Date	Notes	Follow up required
Look through windows for signs of occupancy			
Contact with Neighbours			
Contact with relatives, friends			

Has the tenant any disabilities i.e. hearing &/or sight?			
Does tenant normally have absences from home without advising anyone?			
Check rent account for last payment?			
Check with other Housing agencies in area. Tenant may have been rehoused.			
Contact Social Work			
Contact Housing Benefit for notified change of circumstances			
Check local hospitals for tenant admission			
Check with Police for remand etc.			
Contact employer if known			
First abandoned house notice served			
If no reply received at office within 4 weeks of serving the notice, a second abandonment notice will be served terminating the tenancy			
Decision taken to force entry: YES/NO (Note others in attendance)			
House, including cupboards, loft and any outhouses, checked for tenant, other persons and animals			
Services turned off, if appropriate, and meter readings taken			

Inventory of property taken (include condition report)			
Decision on storage or disposal of tenant's possessions.			
Secure Property			

**If however at any time during the above procedures, the Association considers either the property itself or neighbouring properties to be at risk, a decision must be taken to force entry.**

## Appendix 2

DATE

Tenancy Number:

NAME

ADDRESS

Dear NAME

**Section 18 of the Housing (Scotland) Act 2001:  
Notice of Termination of Scottish Secure Tenancy  
1<sup>st</sup> Notice for Abandoned House**

I have reason to believe that your dwelling at ADDRESS is unoccupied and that you do not intend to occupy it as your home.

I therefore give you notice that if you intend to occupy the dwelling as your home, you must inform me in writing within 28 days of the date shown at the top of this letter.

I further advise you that if it appears to the Association at the end of the 28 days that you do not intend to occupy the dwelling as your home, your tenancy of the house will be terminated with immediate effect.

In accordance with The Scottish Secure Tenancies (Abandoned Property) Order 2002, if there is property in the home, I hereby give notice that you must collect it from the house within 28 days of the date shown at the top of this letter.

Yours sincerely,

**NAME**

**Housing Officer**

[NAME@wellhouseha.org.uk](mailto:NAME@wellhouseha.org.uk)

### Appendix 3

DATE

Tenancy Number:

NAME

ADDRESS

Dear NAME,

**Section 18 of The Housing (Scotland) Act 2001:  
Notice of Termination of Scottish Secure Tenancy  
2nd Notice for Abandoned House**

On DATE the Association served you a notice stating we had reason to believe that your dwelling at ADDRESS was unoccupied and that you did not intend to occupy it as your home.

The letter instructed that if you did intend to occupy the dwelling as your home you were to inform me in writing within 28 days or your tenancy of the dwelling would be terminated with immediate effect.

You have not contacted the Association to discuss this letter nor have you submitted your intention to reside in property in writing. Subsequently, we are now satisfied that the dwelling is unoccupied and that you do not intend to occupy it as your home. We therefore give you notice that the tenancy has been terminated with immediate effect.

Yours sincerely,

**NAME**

**Housing Officer**

[NAME@wellhouseha.org.uk](mailto:NAME@wellhouseha.org.uk)

**Appendix 4**

<b>INVENTORY AND PHOTOGRAPHS</b>			
<b>ROOM/AREA</b>	<b>ITEMS FOUND</b>	<b>CONDITION OF ITEMS</b>	<b>PHOTOGRAPHS TAKEN? Y/N</b>
<b>LIVING ROOM</b>			
<b>HALL</b>			
<b>BATHROOM</b>			
<b>KITCHEN</b>			
<b>BEDROOM 1</b>			
<b>BEDROOM 2</b>			
<b>BEDROOM 3</b>			



<b>GARDEN/OUTDOORS</b>			
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**GENERAL CONDITION OF PROPERTY:**

**INTERNAL**

**EXTERNAL**

--	--

**ANY ADDITIONAL INFORMATION**

--

**ANY ITEMS REQUIRING STORAGE?**

YES / NO

**IF YES PLEASE LIST ITEMS:**

--

**DETAILS OF STORAGE**

**NAME/ADDRESS OF STORAGE FACILITY:**

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**COST OF STORAGE**

--	--

**ESTIMATED COST OF BELONGINGS**

--	--

**ANY OUTSTANDING DEBTS OWED TO WHA**

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The property at ADDRESS \_\_\_\_\_ was inspected on DATE by NAME and NAME who confirm the condition and contents as detailed below:

Signed: \_\_\_\_\_ NAME – Housing Officer

Date: \_\_\_\_\_

Signed: \_\_\_\_\_ NAME - JOB TITLE

Date: \_\_\_\_\_

**Appendix 5**

**CERTIFICATE OF DELIVERY**

A notice, of which the attached copy notice is certified a true copy, was served on  
**NAME OF TENANT**

by introducing it into the dwelling, by way of letterbox at  
**ADDRESS**

on  
**DATE**

Certified true copy by: \_\_\_\_\_ NAME – Housing Officer

Served by: \_\_\_\_\_ NAME – Housing Officer

Witness to Service: \_\_\_\_\_ NAME – JOB TITLE

## **Appendix 6**

DATE

NAME  
ADDRESS

Dear NAME

### **Section 20 of the Housing (Scotland) Act 2001: Notice of Termination of Interest in Scottish Secure Tenancy**

I have reason to believe that you are not occupying the dwelling at ADDRESS and that you do not intend to occupy it as your home.

I therefore give you notice that if you intend to occupy it as your home, you must inform me in writing with 28 days of the date shown at the top of this letter.

I further inform you that if it appears to the Association at the end of the 28 days that you do not intend to occupy the dwelling as your home, we will serve on you a further notice bringing your interest in the tenancy to an end from the date specified in that notice.

Yours sincerely,

**NAME**  
**Housing Officer**  
[NAME@wellhouseha.org.uk](mailto:NAME@wellhouseha.org.uk)

## Appendix 7

DATE

NAME

ADDRESS

Dear NAME

**Section 18 of The Housing (Scotland) Act 2001:  
Notice of Termination of Interest in Scottish Secure Tenancy  
2nd Notice for Abandoned House**

On **DATE** the Association served on you a notice requiring you to inform us in writing within 28 days that you intended to occupy the dwelling at ADDRESS as your home.

The Association is now satisfied that that you do not intend to occupy the dwelling as your home. We therefore give you notice that your interest in the tenancy will be terminated from INSERT DATE.

Yours sincerely,

**NAME**  
**Housing Officer**  
[NAME@wellhouseha.org.uk](mailto:NAME@wellhouseha.org.uk)