

## **ABANDONMENT PROCEDURE**

### **1. INTRODUCTION**

- 1.1 Advance is committed to providing an effective tenancy management service for our customers living in our accommodation. This Procedure is part of the Housing Management procedures for Advance. This procedure will be fairly and consistently applied.

### **2. ESTABLISHING THE STATUS OF THE PROPERTY**

- 2.1 Dealing with abandonment or suspected abandonment is not straight forward. Advance has a responsibility to protect both the organisation and its tenant by not inadvertently evicting somebody when recovering possessions at an 'abandoned' property.
- 2.2 The Regional Housing Officers are responsible for responding to reports that tenancies may have been abandoned and should notify the Head of Tenancy and Leasehold Management of any cases. It is up to Advance to prove that the property has been abandoned and not the resident to prove otherwise.
- 2.3 Where a suspected abandonment comes to the attention of Advance the RHO should initially try and make contact with the tenant using all of the relevant contact information we have on Open Housing, including any recorded on the original application. Attempts to contact should be recorded on the Diary against the Tenancy. If attempts to contact the tenant are unsuccessful a visit will be required.
- 2.4 To take possession of a property, Advance must show that the tenant has ceased to occupy and does not intend to return. If the tenant intends to return to the property he/she cannot be said to be surrendering merely because he/she is not physically there. The RHO or an Advance representative should complete the attached Abandonment checklist, which will form part of the evidence that Advance has completed a thorough assessment, prior to any action being taken.
- 2.5 When the property is visited to undertake the Abandonment checklist and this visit confirmed the suspected abandonment, the 7 day calling document (attached to the checklist) must be left.
- 2.6 If the initial visit proves to be inconclusive, further visits must be undertaken and the RHO should complete Appendix 3 Abandonment Checklist – Evidence Record Visit 2 & 3.

### **3. ENDING THE TENANCY**

- 3.1 If it can be established that the tenant has abandoned and therefore no longer occupies a dwelling as his/her only principal home Advance can end the contractual tenancy by giving 4 weeks' notice to quit (NTQ) regardless of the type of assured tenancy, providing the tenancy agreement allows for it. It is expected that the tenancy agreement has been reviewed through the assessment process.
- 3.2 An NTQ should be served in person at the address, which includes checking that the 7 day calling document hasn't been moved. In addition, a copy of the NTQ should also be sent recorded delivery to another known address and another copy should be placed on our file. Please allow for delivery when calculating the 4 weeks' notice.

- 3.3 Throughout the period of the NTQ attempts to locate the tenant must be continued and records kept on file of these attempts.
- 3.4 If the tenant returns the keys during the notice period, they have voluntarily surrendered the property; however Advance should not enter the property until the notice expires. If possible the tenant should be made aware that rent will be chargeable until the end of the notice period and a forwarding address should be requested.
- 3.5 Once the notice expires the next step is agreed by the Head of Tenancy and Leasehold, who will review all of the evidence, including noting the provisions in the tenancy agreement, to make a decision based on the following principles:
- If the evidence is clear that the tenant has definitely abandoned we may take possession of the property at that stage. Recognising that the lawful way of ending the tenancy is via a court order.
  - If the evidence raises any doubts about the abandonment, the process can be continued by obtaining a court order for possession as outlined in section E of the Tenancy Agreement.
  - The decision making processes should be clearly document and noted on the tenancy file.
- 3.6 If the court order grants agreement to take a possession of the property and provided it's clear prior to entry into the property that no-one is living there, Advance may repossess the property. It's advisable for two people to be in attendance at the property when Advance takes possession, consideration should be given about the 2 people in attendance as it might be advisable to take possession with the assistance of a bailiff.
- 3.7 If Advance does not have any keys for the property, arrange for the locks to be changed. If it's agreed once Advance enter the property that there no evidence that the tenant is occupying and has no intent to return please complete a void inspection and an inventory of any personal possessions should be completed. All documentation should be signed by both advance colleagues. In addition to the documents, please take photographs of the belongings and store these alongside the inventory on the tenant file.
- 3.8 If it becomes clear, once the property has been accessed that the tenant has not abandoned i.e. expensive electrical equipment, live pets or neatly piled up mail. Please leave the property immediately, place a note on the file where the keys can be obtained. Advance should not take possession at this stage and refer back to the Head of Tenancy and Leasehold Management.

#### **4. TENANT BELONGINGS**

- 4.1 Once the Property is in Advance's possession, the organisation needs to ensure that the tenant has not left behind any belongings. The RHO should complete Appendix 4, with the person who has attended to take possession. Both should sign the Inventory. It's vitally important that photographs taken of tenants belongings are photographed how they have been left at the property, this will assist if the tenant raises a dispute.

- 4.2 The former tenant belongings remains the property of the former tenant, so it's important that we take a fair and reasonable approach to holding belongings and are clear about how these belongings will be managed. The law relating to uncollected consumer goods is covered by the Torts (interference with Goods) Act 1977.
- 4.3 The RHO should write to the former tenant about any belongings, including a copy of the inventory. The letter needs to be explicit and identify that it's a TORT notice and should include the following:
- Specify the name and address of the former tenant
  - Detail the goods (inventory)
  - Identify where the goods are being stored (liaison with Property Services will be required as the storage solutions will differ dependent on the local arrangements) and how to access them
  - Be in writing and served by delivering it to the tenant at any known address (could be at the address of the Next of Kin) using a recorded mail service.
  - If the goods have any value, it's advisable that the date that these goods will be sold is contained in the same letter.
  - The destination for any money raised from the sale of valuable goods should be outlined in the letter and if there are outstanding arrears these will be deducted before proceeds are returned to the former tenant
  - All valuable items will be held for 3 months, other goods will be held for 28 days.
- 4.4 All actions on former tenant belongings should be documented on the tenant file.

## **5. DATA PROTECTION**

- 5.1 Where personal information of any individual is collected, shared or otherwise processed in pursuit of the objectives of or guidance within this policy, this must be performed in accordance with the Data Protection Policy, the Information Security Policy, the General Data Protection Regulations, and any other relevant guidance on handling personal data responsibly.
- 5.2 Any records made as a result of following this policy must be retained in accordance with the Retention of Records Policy.

## **6. DIVERSITY AND EQUALITY**

- 6.1 Advance will apply this policy consistently and treat all customers with fairness and respect. We recognise that we have an ethical and legal duty to promote equality of opportunity and prevent discrimination on the grounds of age, sex, sexual orientation, disability, race, religion or belief, gender reassignment, pregnancy and maternity, marriage and civil partnership.
- 6.1 This procedure can be made available in other formats upon request.