



Abandoned Houses

This leaflet outlines what the Council does when it believes that one of their houses has been abandoned. It is intended only as a plain language summary and it is not a precise statement of the law.

The Council is generally referred to as “we” throughout this leaflet. Tenants are normally referred to as “you”.

Abandoned Tenancies

We can serve an abandonment notice on tenants when we have reasonable grounds for believing that their house is empty and the tenant doesn't intend to return.

Before serving this notice, we must carry out detailed checks to make sure that the house has been abandoned. Even after the notice has been served, we carry out further checks to ensure that the tenant doesn't intend to return.

After four weeks have passed, we will serve a second notice that immediately ends the Scottish secure tenancy.

We can enter the house at any time to secure the house and protect both the house and its contents against vandalism.

Appeals

You can appeal to the sheriff court up to 6 months after the date when the tenancy was ended if you think we have acted wrongly in using the abandonment procedures.

We will have failed to carry out abandonment procedures properly if we:

- Did not follow the abandonment notice procedures, for example, didn't serve the notices properly.
- Did not have reasonable grounds for finding the house to be empty or did not have enough information about the tenant's intention to return.
- Acted in error, for example, where the tenant couldn't notify us of their intention to occupy the house because of illness.

Where we have not carried out the abandonment procedures properly, the Sheriff must declare that the abandonment notice is invalid if the house has not been re-let or instruct us to provide other suitable accommodation if the house has been re-let.

Abandonment by Joint Tenant

Where there are joint tenants, we can also start abandonment procedures in respect of the joint tenant who has abandoned the property. We must have reasonable grounds for believing that this tenant has abandoned the house and doesn't intend to return. We do this by serving an abandonment notice on the joint tenant who has abandoned the property. Any other joint tenants must receive a copy of this notice.

Before serving this notice, we must carry out detailed checks to make sure that the house has been abandoned by one of the joint tenants. Even after the notice has been served, we carry out further checks to ensure that the tenant doesn't intend to return. This notice does not affect the tenancy of the remaining tenant.

After 4 weeks have passed, we will serve a second notice. This notice states that the abandoning tenant's interest can be ended no sooner than 8 weeks from the date that the first notice was served. That second notice does not end the remaining tenant's tenancy which continues.

For example, if Mr and Mrs Smith had a joint tenancy but Mr Smith abandoned the property, after all the notices had been served Mrs Smith would hold the sole tenancy and Mr Smith would hold no further interest in the property.

Appeals and Joint Tenancies

The way to appeal to the sheriff court is different where one joint tenant has abandoned the tenancy.

In these situations, the joint tenant has only 8 weeks to appeal to the sheriff court after the tenancy has been ended.

If the appeal is successful the Sheriff can require us to re-let the house to that joint tenant or provide other suitable accommodation.

We may also have to pay compensation.

Abandoned Property

If we find property in abandoned houses, we must serve a notice. This notice states where the property is available for collection and what will happen to it if it is not collected.

We cannot dispose of property until at least twenty-eight days have passed from the date the notice was served. Also, we cannot dispose of it until the tenancy has been ended.

In situations where the property is worth at least the same as the cost of storing it for six months, we must, in general, store the property. If the property is not claimed, we can dispose of the property after the six month period, for instance, by selling it.

The tenant is entitled to have the property returned during this six month period. We will return the property to the tenant after the storage costs are paid, or an agreement to repay the costs has been made.

However, if the tenant is substantially in arrears with their rent, we reserve the right to take this into account before storing their property. However, if we decide to do this we will serve a separate notice that clearly states the level of arrears.

