

## Abandonment Policy



<b>Reference:</b>	Version 2	<b>Author:</b>	Sue Needham
<b>Scope:</b>	Loddon Home Berry Brook Homes	<b>Approved by:</b>	Holly Messenger
<b>Legislation:</b>	Housing Act 1988 Protection from Eviction Act 1977 Anti-social Behaviour, Crime and Policing Act 2014 Housing and Planning Act 2016 Prevention of Social Housing Fraud Act 2013	<b>Date of approval:</b>	November 2019
<b>Regulatory/ Governance:</b>	The Regulator of Social Housing Tenancy standard	<b>Date of next review:</b>	November 2022
<b>Related Policies:</b>	Current arrears policy Anti -social Behaviour Hate Crime & harassment policy Allocations policy Tenancy Fraud policy		

### 1. Policy Statement

- 1.1 This policy applies to Loddon Homes and Berry Brook Homes which collectively will be referred to as the Local Housing Companies (the LHC).
- 1.2 The LHC has delegated responsibility to Wokingham Borough Council Tenancy Services for ensuring that this policy is implemented and delivered.
- 1.3 Although WBC has been delegated responsibility, the LHC will be consulted and sign off the following proposed actions in delivering this policy:
  - Changing the locks and taking possession without a court order
- 1.4 The LHC is committed to making the best possible use of its housing stock.
- 1.5 Under the conditions of tenancy, social housing residents are required to occupy the property as their main and principal home.
- 1.6 The LHC recognises that abandoned properties cause a loss of income to the organisation and do not ensure that accommodation is available for applicants in housing need and making the best use of its stock.
- 1.7 The LHC will therefore ensure that actions are undertaken in a timely and cost

effective manner to repossess properties that it deems have been abandoned.

- 1.8 The LHC will minimise any potential risks to the organisation when managing abandoned properties. Residents' rights will be safeguarded in order to avoid any potential unlawful eviction claims against the LHC.

## **2. Scope**

- 2.1 This policy applies to any LHC residential property let on a tenancy or licence.
- 2.2 This policy applies when it appears that a property has been vacated and left empty.
- 2.3 For other types of abandonment such as selling keys on or allowing unauthorised occupants to live exclusively in the property refer to the Tenancy Fraud policy.

## **3. Roles and Responsibilities**

- 3.1 Residents are required to comply with their conditions of tenancy and
  - reside in their property as their main and principal home
  - to give 4 weeks' written notice to quit when they are intending to move out
  - advise the LHC if they intend to be absent from the property for any length of time.
- 3.2 The relevant officers in Tenancy Services are responsible for managing any potential abandoned property.
- 3.3 The managers will provide support and guidance to ensure that this policy is complied with and the organisation is not exposed to unlawful eviction claims.
- 3.4 The Senior Specialist Housing Manager has overall responsibility to ensure that this policy is complied with at all times.

## **4. Definitions**

- 4.1 Abandonment: a property is abandoned when a customer is no longer living at the property and has taken no action to terminate or surrender the tenancy as required by their conditions of tenancy or licence.
- 4.2 Main and principal home: all social rented tenancies have clauses that require the tenants to live in the properties as their main and principal home and have no alternative options of where to live.
- 4.3 Absence: Residents who hold a tenancy or licence are entitled to be absent from their home for a substantial period of time, providing that the property remains their only and principal home and they advise the LHC accordingly. The following are accepted as valid reasons for temporary absence:
  - Serving a short prison sentence of less than 6 months (and the conviction does not relate to crime(s) relating to the property or neighbourhood)
  - Staying in hospital
  - Living in student accommodation in term time
  - Living in alternative accommodation as a result of domestic abuse
  - Staying with relatives to provide support and care
  - Having fixed term/temporary employment elsewhere
  - Going on an extended holiday

## **5. Legislation**

- 5.1 The LHC must have due regard to the following legislation in applying this policy:
  - Housing Act 1988

- Protection from Eviction Act 1977
- Anti-social Behaviour, Crime and Policing Act 2014
- Housing and Planning Act 2016
- Prevention of Social Housing Fraud Act 2013

## **6. Procedure**

- 6.1 If the LHC suspects that a customer has abandoned their property, the relevant officer will undertake investigations to determine whether this is the case.
- 6.2 An abandoned property should meet the majority, if not all, of the following conditions:
  - The rent is not being paid
  - The Housing Benefit or Universal Credit housing element has stopped
  - The customer appears to have removed all or most of their household/personal belongings from the property
  - A large amount of post has accumulated
  - The property is insecure but this has not been reported by the customer
  - The customer is no longer registered for council tax, has requested to be removed from the electoral roll or has informed utility companies that they are no longer responsible for utilities
  - The gas, electric or water supply has been disconnected due to non-payment
  - The gas, electric or water consumption has ceased
- 6.3 The LHC will make every effort to contact the absent customer to see if they have any intention of returning and warn them that their tenancy is at risk. When attempting to establish whether a property has been abandoned, the LHC will have due regard to the customer's welfare, safety and legal rights. If they are known to be vulnerable, all relevant support agencies will be contacted and every effort will be made to contact the next of kin as appropriate.
- 6.4 Where the LHC has reasons to believe, following investigation that the welfare of a customer is at risk, refer to WBC's Compliance policy and procedure.
- 6.5 If it can be established on the balance of probability that the property is no longer the main and principal home of the legal occupier, the LHC will take steps to repossess the property.
- 6.6 The initial possession action will be to serve a Notice to Quit (NTQ) and a Notice Seeking Possession (NOSP) under Ground 12 (breach of tenancy obligation) for assured or fixed term tenancies. Ground 10 and 11 will also be used if there are rent arrears. For starter tenancies, a S21 notice will be served no earlier than 4 months from the tenancy start date.
- 6.7 After the NTQ has expired, the Housing Manager will consider whether the evidence obtained confirms, on the balance of probability, abandonment. In these cases the Housing Manager can authorise the locks to be changed and possession obtained.
- 6.8 In all other cases where it is considered that to take possession after the NTQ has expired would potentially expose the LHC to claims for illegal eviction, a possession order will be sought in the county court.

## **7.0 Equality & Diversity**

- 7.1 The LHC recognise the needs of a diverse population and always acts within the scope

of its own Equality and Diversity Policy, the Human Rights Act 1998, and Equalities Act 2010. The LHC work closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles. The LHC will record, analyse and monitor information on ethnicity, vulnerability and disability.

## **8.0. Confidentiality**

8.1 Under the Data Protection Act 2018, and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential. This includes:

- anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or board member
- sensitive organisational information.

8.2 The LHC employees will ensure that they only involve other agencies and share information where there is a legal basis for processing the information.

## **9.0 Review**

9.1 This policy will be reviewed on a three yearly basis or more frequently in response to changes in legislation, regulatory guidance, good practice or changes in other relevant LHC policies.

## **10. Performance**

11.1 Performance in relation to the delivery of the services and activities set out in this policy will be monitored on an ongoing basis through our established reporting mechanisms to our associated boards.

## **11.0 Appendices**

Appendix 1: Abandonment checklist

**APPENDIX 1**

**ABANDONMENT CHECKLIST**

**Lead Housing Officer:**

**Address:**

**Tenant 1:**

**Tenant 2:**

<b>CRITERIA</b>	<b>COMMENTARY</b>
Is the rent being paid?	YES NO
If no what is the level of arrears?	£ at Last payment:
Is there a court order in place?	YES NO
Details of any court order	

Has Housing Benefit/UC housing element ceased?	YES Details:	NO	N/A
Is the property secure?	YES Details: Photographic evidence?	No	
Detail the amount of furniture/household possessions that remain in the property (if can be seen)	Include any photographic evidence		
Is there evidence that post is not being collected?	YES Details:	NO	
Information from Council Tax: Arrears Notification that no longer residing at property			
Information from utilities: Is there debt? Has the service been disconnected? Has the tenant advised that no longer responsible for the supply			
Detail attempts to contact the tenants and outcomes:			

Date NTQ served  
Date NOSP served  
Date S21 served

Date possession hearing applied for:

Possession hearing date:  
Outcome:

Application for Bailiff's warrant:

Date of bailiff's warrant:  
Possession obtained:

In view of the above evidence I consent to the locks being changed and possession taken now that the NTQ has expired

Signed

Print name

Designation      Housing Manager

Date:

Authorised by:

Signed

Print name:

Designation: Senior Specialist Housing Manager