
Report to: Clackmannanshire Council

Date of Meeting: 29th August 2024

Subject: Abandoned Property Policy

Report by: Strategic Director (Place)

1.0 Purpose

- 1.1. This report provides Council with information on the work undertaken to develop the Abandoned Property policy. Council were informed last year that the Service would work on a priority list of policies to bring these up to date, and this policy has been written ensuring that they comply with legislative requirements. Policies must adhere to statutory guidelines and recommendations, including statutory homelessness duties aimed at preventing homelessness, providing relevant support and ensuring the management of the Council's limited housing stock.

2.0 Recommendations

- 2.1. It is recommended that the Council:
- 2.2. Approve the revised and updated Abandoned Property Policy (Appendix 1).

3.0 Background

- 3.1. The policy development works included a consultation exercise undertaken with the Clackmannanshire Tenants' and Residents' Federation (CTRF). Pupils at Alloa Academy were invited to provide comment on the proposals following the implementation of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024.
- 3.2. The Tenancy Management Team within the Housing Service is responsible for the day-to-day operations and management of the Council's housing stock. Officers within the team operate in small patches, with the aim of forming strong relationships with council tenants.
- 3.3. At the start of the tenancy, the Team aims to ensure that the tenant is informed of their rights and responsibilities associated with maintaining the tenancy. Where any issues, vulnerabilities or additional support needs associated with the tenancy are identified, relevant support will be offered and provided.

- 3.4. The Officers carry out regular visits and inspections to the properties. This includes carrying out new tenancy visits to new Council tenants to assess how they are settling in and assess if any further support is required. The Officers also carry out bi-annual visits to every property within their patch. Officers aim to identify, respond and resolve any issues that may arise in association with the tenancy, and respond to any queries and requests posed by the Council's tenants.
- 3.5. The 2023/24 reporting period saw a reduction in abandoned Council properties compared to the previous reporting period, with 34 properties abandoned in 2023/24. The Tenancy Management Team aims to ensure that this downward trend continues, by identifying the needs of and providing appropriate support to tenants to help them sustain their tenancies.
- 3.6. To support the reduction of any financial losses associated with the abandonment of properties and ensure that properties are re-let as soon as possible, the policy aims to establish a clear framework of how abandonment proceedings will be carried out.
- 3.7. The Abandoned Property Policy must comply with statutory responsibilities set out in the Housing (Scotland) Act 2001 and the Scottish Secure Tenancies (Abandoned Property) Order 2002.
- 3.8. The UNCRC (Incorporation) (Scotland) Act 2024 went live in July 2024. The Act incorporates UNCRC into Scotland's laws. As part of the legislation, public authorities will not be allowed to act in ways that are incompatible with the UNCRC requirements. One of the UNCRC requirements is for all public bodies to present information in an accessible format for all children and young people.
- 3.9. All Council policies must now give due regard to UNCRC requirements.
- 3.10. The policy is intended to be more accessible, comprehensive, and easy-to-read, particularly where legal information is presented by paraphrasing the legislation and the relevant statutory guidance and recommendations.
- 3.11. A 'plain English' summary of the policy is provided to adhere to the relevant UNCRC requirements (Appendix 2).

4.0 Changes to the Abandoned Property Policy

- 4.1. The proposed changes to the working policy are as follows:
 - Information on collections of possessions from an abandoned property,
 - Examples of how Officers carry out investigations.

Collection of Possession

- 4.2. Alongside the notice of abandonment, the Council serves a notice under the Scottish Secure Tenancies (Abandoned Property) Order 2002, informing that the tenant has 4 weeks to collect their possessions. The tenant's possessions are kept inside the property for 4 weeks after the initial notice of abandonment has been served. The possessions can be arranged to be collected from the property if the tenant wishes to do so. However, the policy now leaves out information on the storage of the ex-tenant's possession after the expiration of the 4-week notice, as the notice under the abandoned property order has been served.

Carrying out Investigations

- 4.3. The policy now offers robust examples of what inquiries Officers will make when carrying out investigations to confirm that the property has been abandoned or the tenant is not living in the property and does not intend to live in it. This approach has been routine practice for the Service, but formalised now within this policy.

5.0 Sustainability Implications

- 5.1. There are no sustainability implications.

6.0 Resource Implications

Financial Details

- 6.1. There are no funding implications from this report that will not be met from within existing resources.
- 6.2. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

- 6.3. Staffing

There are no staffing implications from this report.

7.0 Exempt Reports

- 7.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

8.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

- (1) **Our Priorities** (Please click on the check box)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all.

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational and achieve their full potential.

Our communities will be resilient and empowered so they can thrive and flourish.

(2) **Council Policies**

Complies with relevant Council Policies

9.0 Equalities Impact

9.1. Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

10.0 Legality

10.1. It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

11.0 Appendices

11.1. Please list any appendices attached to this report.

Appendix 1 Abandoned Property Policy

Appendix 2 Child-friendly Summary

Appendix 3 Equality and Fairer Scotland Impact Assessment

12.0 Background Papers

12.1. Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered).


Yes No
(please list the documents below)

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Clackmannanshire Council
Housing Service
Abandoned Property Policy



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1. Scope of the Policy

Clackmannanshire Council aims to re-let properties as quickly as possible in order to minimise rent loss resulting from abandonment of properties, while ensuring that full investigations are carried out to establish whether property has been abandoned.

Clackmannanshire Council's Abandoned Property Policy sets out a framework of how abandonment proceedings will be carried out to enable the Council to terminate a tenancy agreement made between a tenant and the Council where the tenant has abandoned the property. The policy will allow the Council to manage its limited housing stock effectively and efficiently, and ensure properties are made available to Council residents when the previous tenants have abandoned their tenancy.

2. Aims of the Policy

This policy aims to:

- Make the best use of the Council's housing stock by determining whether a property is abandoned and ensuring that abandoned properties are re-let quickly;
- Minimise the time a property remains unoccupied and any potential rental loss arising from it;
- Protect the tenants' rights by ensuring that thorough investigations are made into the occupancy of the property before starting the abandonment proceedings;
- Make sure all abandonment proceedings meet the legislative requirements.

3. Legal Framework

Clackmannanshire Council will ensure that this policy adheres to all legislative requirements under relevant legislation.

The main legislative framework for abandonment proceedings is set out in the following legislation:

- Housing (Scotland) Act 2001
- Scottish Secure Tenancies (Abandoned Property) Order 2002

4. Single Tenancy Abandonment Proceedings

4.1. Notice of Abandonment



If the Council reasonably believes that a property is unoccupied and the tenant does not intend to live in it, the Council may serve a notice on the tenant to start the abandonment proceedings. The notice must state that:

- The Council believes that the property is unoccupied and the tenant does not intend to live in it;
- The tenant must inform the Council in writing if they intend to live in the property within 4 weeks of receiving the notice;
- The tenancy will be terminated at the end of the 4-week period if the Council believes that the tenant does not intend to live in the property.

The notice can be served on the tenant by handing it in-person, posting it or leaving it at their last known address.

4.2. Carrying Out Investigations

The Council will investigate to confirm that the property is unoccupied and that the tenant does not intend to live in it within the 4-week period after the notice has been served. Inquiries may include, but are not limited to:

- Checking for signs of occupancy, including any recent rent payments made or any recent repairs carried out;
- Contacting other departments and/or partner services and agencies such as Social Work or Criminal Justice;
- Contacting neighbours, friends, relatives or Police Scotland.

4.3. Contact from the Tenant

If the tenant makes contact within the 4-week period to inform the Council that they intend to live in the property, the abandonment proceedings will be cancelled.

4.4. Ending the Tenancy

At the end of the 4-week period, if the Council has served the required notice, and is satisfied that the tenant has abandoned the property, it may serve a further notice on the tenant which immediately ends the tenancy.

4.5. Securing the Property



Once the Council establishes that the property has been abandoned, the Council may enter the property to secure it and/or any fixtures and fittings within it against vandalism. This may include arranging a forced entry. Lock change will be necessary following any forced entry which may be rechargeable to the tenant.

4.6. Collection of Possessions

Once the first Notice of Abandonment has been served, the Council will also serve a property notice on the tenant stating that their possessions are available for collection from the property within a 4-week period.

The notice can be served on the tenant by posting it or leaving it at their last known address.

On the expiry of the 4-week notice, the Council may dispose of any remaining property.

5. Joint Tenancy Abandonment Proceedings

5.1. Notice of Abandonment

If the Council reasonably believes that a tenant under a joint tenancy agreement (the abandoning tenant) is not living in the property and does not intend to live in it, the Council may serve a notice on the abandoning tenant to start the abandonment proceedings. The notice must state that:

- The Council believes that the abandoning tenant is not living in the property and does not intend to live in it;
- The abandoning tenant must inform the Council in writing if they intend to live in the property within 4 weeks of receiving the notice;
- The Council will serve another notice to the abandoning tenant at the end of the 4-week period, if the Council believes that the abandoning tenant does not intend to live in the property.

Each notice can be served on the abandoning tenant by handing it in-person, posting it or leaving it at their last known address.

A copy of both notices must be served on each of the other joint tenants under the joint tenancy agreement.

5.2. Carrying out Investigations



The Council will investigate to confirm that the abandoning tenant is not living in the property and does not intend to live in it within the 4-week period after the first notice has been served. Inquiries may include, but are not limited to:

- Checking for signs of occupancy;
- Contacting other departments and/or partner services and agencies such as Social Work or Criminal Justice;
- Contacting neighbours, friends, relatives or Police Scotland.

5.3. Contact from the Abandoning Tenant

If the abandoning tenant makes contact within the 4-week period, an interview will be arranged with them to determine the reasons for their absence from the property.

Following the interview, the abandonment proceedings may be cancelled if the Council is satisfied that there were sufficient reasons for the tenant's absence.

If the joint tenant was absent from the property because they no longer wish to live at the property, they may transfer the tenancy to the other tenant. The joint tenant will then end their tenancy, the Council will reallocate the property to the other tenant as a sole tenancy agreement and the abandonment proceedings on the joint tenant will be cancelled.

5.4. Ending the Tenancy

If the Council has served the first notice, and is satisfied that the tenant has abandoned the property, it may serve a further and final notice on the abandoning tenant. The final notice specifies when the abandoning tenant's interest in the tenancy will end. This must be at least 8 weeks after the date when the final notice is served.

6. Equal Opportunities and Diversity

Clackmannanshire Council is committed to the elimination of unlawful discrimination, advancing equality of opportunity and fostering good relations between people.

The Council believes that equality of opportunity should be a guiding principle in all of its activities. The Council aims to ensure that its commitment to equality is embedded in all council services and in the organisations that it funds.

In accordance with the Equality Act 2010, the Council is actively working towards the elimination of policies and practices that discriminate unfairly on grounds including age; disability; gender



reassignment; marriage and civil partnership; pregnancy and maternity; race including colour, nationality, ethnic or national origin; religion or belief; sex; and sexual orientation.

7. Privacy Statement

Clackmannanshire Council must adhere with its legal obligations under Data Protection Legislation as set out in the Data Protection Act 2018 and UK General Protection Regulation (GDPR).

In order to provide the required and/or requested services, the Council will collect, store and process relevant personal information or data.

Personal information may also be shared with other partner agencies and organisations.

Personal information will be kept securely, as long as required by law and/or by specific service requirements. Once the data is no longer required, it will be securely disposed of. The Council has a Record Retention Schedule which sets out the period of time and reasons for keeping particular records. The Retention Schedule is available on request.

Under the Data Protection Act 2018 and the Freedom of Information(Scotland) Act 2002, individuals have the right to access personal information and data held about them by Clackmannanshire Council as well as the right to access information from records held by the Council.

To submit a Subject Access or Freedom of Information request, please follow [the link](#).

To make a complaint in relation to the Council's handling and processing of personal data and information, please contact the [Information Commissioner's Office](#).

For further information on Clackmannanshire Council's data protection practices, please visit the Council's [Data Protection Statement](#). For the Council's Data Protection Policy, please follow the [link](#). For further information on freedom of information laws, please visit the [Scottish Information Commissioner webpage](#).

8. Complaints

If the tenant is dissatisfied with the provided services and/or the standards of service, please follow the Council's Complaints Procedure. Complaints can be made in person, in writing, by email or online. For further information on the Complaints Procedure and how to make a complaint, please visit the [Council's Complaints Procedure webpage](#).

If the tenant remains dissatisfied with the final decision or the way the complaint has been handled following the Council's Complaints Handling Procedure, they can make a complaint to the Scottish Public Services Ombudsman (SPSO) by completing a [complaints form found online](#) or calling on 0800 377 7330.



For further information on how to make a complaint to SPSO, please visit the [SPSO website](#).

9. Appeals

9.1. Single Tenancy

A tenant who has had their tenancy agreement terminated following the abandonment proceedings may apply to the Court within 6 months after the date of the termination to have the decision reassessed, if the Council:

- Failed to follow the procedures correctly;
- Did not have reasonable grounds to believe that the property was unoccupied or that the tenant did not intend to live in it;
- Was in error in finding that the tenant did not intend to live in the property, and the tenant had a reasonable cause for failing to notify the Council of their intention to live in it.

If the Court finds the Council's decision following the abandonment proceedings to be invalid, the Court must:

- Make an order to continue the original tenancy, if it has not been let to someone else;
- If the original property has been re-let, the Council must provide the tenant with other suitable accommodation;
- Make any other relevant order relating to the tenancy.

9.2. Joint Tenancy

A tenant under a joint tenancy agreement may apply to the Court within 8 weeks after the date of the service of the final notice which ends their tenancy to have the decision reassessed, if the Council:

- Failed to follow the procedures correctly;
- Did not have reasonable grounds to believe that the joint tenant was not occupying the property or that they intend to occupy it as the tenant's home;
- Was in error in finding that the joint tenant did not intend to live in their property, and the joint tenant had a reasonable cause for failing to notify the Council of their intention to live in it.

If the Court finds that Council's decision following the abandonment proceedings is invalid, the Court must:



- Make an order to continue the joint tenant's original tenancy;
- If it is not reasonable to continue their original tenancy , the Council must provide the joint tenant with other suitable accommodation;
- Make any other relevant order relating to the tenancy.

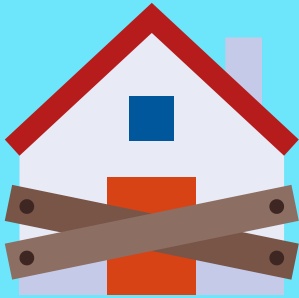
10. Monitoring and Reviewing

The policy will be continuously monitored to ensure that it is performing efficiently against the aims set out in the policy.

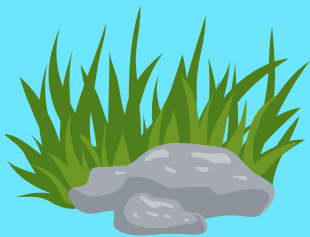
The Council will review and evaluate this policy every 3 years to ensure the adherence to the relevant legislation and statutory guidance as well as changes in organisational practices and policies.

ABANDONED PROPERTY POLICY

CHILD-FRIENDLY VERSION



Clackmannanshire Council has around 5000 homes that people live in. Sometimes those people move out and leave the homes empty, these are called abandoned homes. This document explains how we deal with abandoned homes. We have lots of people on the waiting list to get a home, so we do not want our homes lying empty. We want to make sure that we follow all correct procedures when we deal with abandoned homes.



Housing Officers go out on visits and can sometimes see signs that homes are empty. For example, overgrown gardens, no movement in the house, no use of electric or gas or lots of letters behind the door. We will investigate if we think that a person has abandoned the home. We may contact the person, check gas and electric records or inspect the home to see if anyone is living there.

If we believe that a person has abandoned the home, we will start the process to end the agreement which allows them to live in the home (tenancy agreement). We will send the person a letter which tells them that we plan to end the agreement. If the person contacts us to tell us that they plan to live in the home, we will stop the process to end the agreement.



If the person does not contact us, we will end the agreement. We will change the locks on the doors to make sure the house is secure and to prevent damage to the home. We will get rid of any items left in the home. If a person is not happy that we ended the agreement, they can ask the Court to look at our decision again



Equality and Fairer Scotland Impact Assessment - Screening

Title of Policy:	Abandoned Property Policy
Service:	Place
Team:	Housing Business Management

Will the policy have to go to Council or committee for approval	Yes
Is it a major policy, significantly affecting how functions are delivered?	No
Does it relate to functions that previous involvement activities have identified as being important to particular protected groups?	No
Does it relate to an area where the Council has set equality outcomes?	No
Does it relate to an area where there are known inequalities?	No
Does it relate to a policy where there is significant potential for reducing inequalities or improving outcomes?	No

IF YES TO ANY - Move on to an Equality & Fairer Scotland Assessment

IF NO - Explain why an Equality & Fairer Scotland Assessment is not required

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APPROVAL

NAME	DESIGNATION	DATE

NB This screening exercise is not to be treated as an assessment of impact and therefore does not need to be published. However, if you decide not to assess the impact of any policy, you will have to be able to explain your decision. To do this, you should keep a full record of how you reached your decision.

Equality and Fairer Scotland Impact Assessment - Scoping

Purpose of the proposed policy or changes to established policy

Clackmannanshire Council's Abandoned Property Policy sets out a framework of how abandonment proceedings will be carried out to enable the Council to terminate a tenancy agreement made between a tenant and the Council where the tenant has been determined to have abandoned the property. The Council aims to re-let properties as quickly as possible in order to minimise rent loss resulting from abandonment of properties, while ensuring that full investigations are carried out to establish whether a property has been abandoned.

The Council's Abandoned Property Policy has been reviewed to ensure that it complies with all legislative requirements under Housing (Scotland) Act 2001 and Scottish Secure Tenancies (Abandoned Property) Order 2002.

The reviewed policy aims to ensure that it is in line with the updated strategic local priorities, and that it supports the Council's objectives in managing its limited housing stock effectively and efficiently, and ensure that housing is made available to Council residents when previous tenants have abandoned their tenancy. Furthermore, the policy aims to protect the tenants' rights by ensuring that thorough investigations are made into the occupancy of the property before starting the abandonment proceedings.

The policy document proposes to make changes to formatting to make it more accessible. The reviewed Abandoned Property Policy aims to give due regard to the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 which will go live in July and requires all public bodies to present information in an accessible formation for all young people.

The Abandoned Property Policy is now intended to be structured in a more comprehensive way and be written in more simplistic language, particularly where legal information must be presented by paraphrasing the legislation and the relevant statutory guidance and recommendations.

Which aspects of the policy are particularly relevant to each element of the Council's responsibilities in relation to the General Equality Duty and the Fairer Scotland Duty?

General Equality Duty -

➤ Eliminating unlawful discrimination, harassment and victimisation and other prohibited conduct

Clackmannanshire Council's Abandoned Property Policy has considered potential unlawful discrimination to ensure that services are delivered to all and no one is unequally discriminated. The policy is written in adherence with all legislative requirements and changes in local priorities and outcomes to make sure it does not discriminate disproportionately against any of the protected characteristics where the Council decides to carry out abandonment proceedings.

➤ Advancing equality of opportunity between people who share a relevant protected characteristic and those who do not

Proposals on the changes of formatting, simplifying information and providing an easy-to-read summary of the document may have positive impact on protected groups.

➤ Fostering good relations between people who share a protected characteristic and those who do not.

Impacts are assessed as low in relation to the proposed changes to the policy.

Fairer Scotland Duty -

➤ **Reducing inequalities of outcome caused by socioeconomic disadvantage**

Impacts are assessed as low in relation to the proposed changes to the policy.

To which of the equality groups is the policy relevant?		
Protected Characteristic	Yes/No	Explanation
Age	Yes	The proposed policy document aims to change formatting, simplifying the information and providing an easy-to-read summary of the document, which aims to help children and young people read and understand complicated documents.
Disability	Yes	The proposed policy document aims to change formatting, simplifying the information and providing an easy-to-read summary of the document, which may help people with learning disabilities to read and understand complicated documents.
Gender Reassignment	No	There is no indication at this stage that this protected characteristic would be impacted
Marriage and civil partnership	No	There is no indication at this stage that this protected characteristic would be impacted
Pregnancy and Maternity	No	There is no indication at this stage that this protected characteristic would be impacted
Race	No	There is no indication at this stage that this protected characteristic would be impacted
Religion and Belief	No	There is no indication at this stage that this protected characteristic would be impacted
Sex	No	There is no indication at this stage that this protected characteristic would be impacted
Sexual Orientation	No	There is no indication at this stage that this protected characteristic would be impacted.

What evidence is already available about the needs of relevant groups, and where are the gaps in evidence?

Clackmannanshire Council has a robust process for initiating and carrying out any and all abandonment proceedings which is in line with all legislative requirements and statutory guidance.

This policy does not aim to unlawfully discriminate against or have a negative impact on any of the protected groups.

However, we seek to gather additional information on the needs of the relevant groups, any potential impacts relating to the proposals and any mitigating actions that the Council could take.

Which equality groups and communities might it be helpful to involve in the development of the policy?

We are seeking information on any impacts arising from the proposals and any additional mitigation that we should consider

In particular, we are seeking views from Clackmannanshire Tenants and Residents Federation as well as children and young people.

Next steps

Clackmannanshire Tenants' and Residents' Federation as well as Alloa Academy's Pupil Parliament will be consulted.

We will update and publish this impact assessment following the completion of the Clackmannanshire Council's Eviction Policy consultations and analysis of feedback.

Equality and Fairer Scotland Impact Assessment - Decision

Evidence findings		
Details of engagement undertaken and feedback received		
Following the engagement with Clackmannanshire Tenants' and Residents' Federation and Alloa Academy's Pupil Parliament, appropriate changes were made to alter the layout and the wording of the document following the feedback received from the groups.		
Decision/recommendation		
Having considered the potential or actual impacts of this policy, the following decision/ recommendation is made:		
Tick ✓	Option 1: No major change The assessment demonstrates that the policy is robust. The evidence shows no potential for unlawful discrimination and that all opportunities have been taken to advance equality of opportunity and foster good relations, subject to continuing monitoring and review.	
	Option 2: Adjust the policy – this involves taking steps to remove any barriers, to better advance equality or to foster good relations. It may be possible to remove or change the aspect of the policy that creates any negative or unwanted impact, or to introduce additional measures to reduce or mitigate any potential negative impact.	
	Option 3: Continue the policy – this means adopting or continuing with the policy, despite the potential for adverse impact. The justification should clearly set out how this decision is compatible with the Council's obligations under the duty.	
	Option 4: Stop and remove the policy – if there are adverse effects that are not justified and cannot be mitigated, consideration should be given to stopping the policy altogether. If a policy leads to unlawful discrimination it should be removed or changed.	
Justification for decision		
APPROVAL		
NAME	DESIGNATION	DATE