

abandoned properties

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| Responsible Officer: | Assistant Chief Executive Neighbourhoods |
| Approved: | June 2018 |
| Review Date: | June 2021 |
| Ratification: | 2 |
| Regulatory Framework: | Tenancy Standard |
| Scope: | Group Wide |

Abandoned Properties Policy

1.0 Introduction

- 1.1 Reference to 'Incommunities/Incommunities Ltd/the landlord/our/we' in this policy shall be deemed to apply to Group subsidiaries as appropriate unless specified otherwise.

The purpose of this policy is to ensure we make best possible use of our housing stock by managing long term absence as well as ensuring we act swiftly to repossess properties that have been abandoned. Abandoned properties have financial costs (due to loss of income) and social costs (ensuring accommodation is available for households in housing need).

- 1.2 An abandoned property is one where the tenant has moved out and has not terminated the tenancy in accordance with the tenancy agreement, nor has a court order been granted for possession to Incommunities. .
- 1.3 It is not always easy to know if a property has been abandoned therefore the correct procedure should be adopted to establish a clear audit trail showing that all reasonable steps have been taken to arrive at a decision based on the evidence. This procedure should be followed in all cases, even those where it is clear that the tenant has abandoned
- 1.4 Where the tenant(s) vacate leaving other people in situ, this should be dealt with via the appropriate legal process.
- 1.5 This policy will outline Incommunities approach to dealing with abandoned properties to comply with legislation and protect the rights of our tenants.

2.0 Policy Statement

- 2.1 Incommunities will investigate all reports of a suspected abandoned property with the intention of ensuring that all Incommunities properties are used as the tenant's principal residence. It will ensure best use of stock, help create sustainable communities and minimise income loss.
- 2.3 Incommunities aims to provide a fair and efficient service when dealing with abandoned properties by:
- Ensuring any suspected abandonment is investigated in a timely manner.
 - Ensuring that all reasonable steps are taken and checks undertaken to attempt to contact the tenant before taking steps to recover possession of the property.
 - Applying for a court order where investigations identify that a property is not being used by the tenant as his/her only principal home but there is reason to consider that the tenant may return.
 - Where it is reasonably suspected that a property has been abandoned, maintain regular visits to the property to ensure it remains secure.
 - Reducing the length of time that abandoned properties are empty to minimise the negative impact that void properties can have on the neighbourhood.
 - Reducing the length of time that abandoned properties are empty to minimise the likelihood of any damage and/or vandalism to the property and the potential cost of rent to the tenant.

3.0 Tenant Responsibilities

- 3.1 It is a key principle of the tenancy agreement that the property is used as the tenant's only or main residence for the duration of the tenancy. Failure to do so can result in Incommunities taking steps to terminate the tenancy by serving a Notice to Quit and following the process set out in section 4.0.
- 3.2 Tenant's must inform us, in advance, if they intend to be absent from the property for more than 28 days. Tenants should also advise Incommunities of their planned return date.
- 3.3 Where notice of absence is given, we will ask for details of the circumstances from the tenant. This could include the reasons for the absence, duration, certainty of return and date, forwarding address and contact number and arrangements for paying rent as applicable. We will advise the tenant that any absence longer than the agreed time may result in us taking action to repossess the property.
- 3.4 We understand there may be circumstances where a tenant is absent from their property for a substantial period of time, including (but not limited to); receiving a prison sentence, staying in hospital, extended holidays. The tenant must keep us informed if they expect to be away from the home for a long period of time. The property will remain the tenant's responsibility and the tenant will be responsible for making rent payments in line with the tenancy agreement during any long term absence.
- 3.5 Where absence is due to a prison sentence, Incommunities will consider the following before making a decision on how to proceed;
 - The nature of the crime
 - The expected duration of absence
 - Ability to pay rent for the duration of the absence

If a serious offence is committed this will be deemed as a breach of tenancy and we will seek possession of the property, in line with the Anti Social Behaviour and Hate Incident Policy, if the tenant does not first terminate their tenancy.

4.0 Approach to Suspected Abandoned Properties

- 4.1 An Abandoned property may be identified from a number of different sources, including but not limited to: Incommunities staff; neighbours; Council Officials, the Police and in some cases Housing Benefit may cease payments.
- 4.2 On receipt of a report, the Neighbourhood Officer will carry out the following checks;
 - Attempt to contact the tenant using any method of contact identified (e.g. telephone, text message, email, visiting properties the tenant may have a connection to)

- Check the status of the rent account and if there is any legal action already being pursued against the tenancy
 - Check if any repairs have been carried out in the last 12 months, when the last gas service was and if this is overdue. Check meter readings if the gas/electric meters are located outside the property
 - If the property has a door entry system, check with CCTV for any activity
 - Visit the property, attempting to contact the tenant and check if the property appears lived in
 - Speak with neighbours, where possible, to establish whether they have any information which may assist
 - Contact any next of kin and support workers for information
 - Where information is known, contact the tenant's employer and/or school where any children who are living at the property are registered
 - Where appropriate, check with Housing Benefit and/or Universal Credit
 - If there are concerns for the tenants welfare, contact the local hospital and/or police
 - We may send a 7 day warning letter for the tenant to contact us before a Notice to Quit is served
- 4.3 If the investigations carried out at 4.2 indicate that the tenant is not using the property as their only or main residence we will proceed to take action to gain possession of the property
- 4.4 If contact with the tenant has not been established and the investigations support a conclusion of abandonment, the Neighbourhood Housing Officer will hand deliver a Notice to Quit (NTQ). Throughout the period of the NTQ, the Neighbourhood Housing Officer will continue with attempts to contact the tenant, including visits to check the property on a weekly basis.
- 4.5 The Neighbourhood Housing Officer will keep a clear written record of all attempts and checks made to locate the tenant.
- 4.6 At the expiry of the NTQ if the Neighbourhood Housing Officer is satisfied that the property is abandoned, a decision can be made to carry out a lock change. A referral must be made to the appropriate Neighbourhood Manager/Housing Services Team Leader for authorisation to terminate the tenancy from the Sunday after the Notice concludes.
- 4.7 If a decision is made to carry out a lock change, a full inventory of any items left in the property must be completed together with photographs showing the condition of the property and of the items left within. If items are left within the property, a TORT notice will be served following advice from Incommunities Legal Team.

- 4.8 If the properties gas service is overdue, arrangements will also be made to carry out a gas service at the same time as the locks are changed to the property.
- 4.8 If there is doubt as to whether the tenant has left, including if following the lock change items are found to be left in the property, then the tenancy should not be treated as abandoned and a referral should be submitted to the Incommunities Legal Team to apply for a possession order.

5.0 Abandoned Properties and the Law

- 5.1 Under section 1 of the Protection from Eviction Act 1977 it is a criminal offence for any person to unlawfully deprive the residential occupier of any premises, unless that person can prove that he/she believed, and had reasonable cause to believe that the residential occupier has ceased to reside in the premises.
- 5.2 The tenant can also sue the landlord in the Civil Courts and the penalties can be severe.
- 5.3 It is a legal requirement of an assured tenancy that the tenant occupies the property as his/her principal home. If he/she does not, then security of tenure is lost. However the contractual tenancy remains in existence until terminated by the appropriate legal process.
- 5.4 Incommunities may sometimes terminate an abandoned property through the service of Notice to Quit as opposed to a Court Order when all evidence and investigation suggests that the tenant has left on a permanent basis and has no intention of returning.

6.0 Appeal

- 6.1 Tenants will have a right to appeal if they feel their tenancy has been terminated without good cause through the abandoned property procedure. The appeal should be made in writing. A Neighbourhood Director, other appropriate Head of Service or a delegated individual (such as a Neighbourhood Manager), with advice from legal services if required, will review the decision within 10 working days of the appeal request. All relevant information will be sought and taken into account. If the application cannot be resolved by the Neighbourhood Director the appellant will have the right to appeal to a panel of members of the Community Trust Panel who will review the decision.

7.0 Monitoring

- 7.1 This policy and accompanying procedure will be subject to on-going scrutiny and operational review, in consultation with all relevant stakeholders and with regard to feedback obtained by virtue of customer involvement.

8.0 Review

- 8.1 There will be an automatic review of this policy whenever there is a change of statutory or regulatory provisions, or when other information becomes available that will impact on this policy. In any event there will be a substantive review of this policy every three years.

9.0 Associated Documents

- Incommunities Managing Abandoned Properties Procedure
- Incommunities Ltd Allocations and Lettings Policy
- Sadeh Lok Ltd Allocations and Lettings Policy
- Incommunities Group Anti Social Behaviour and Hate Incident Policy
- Incommunities Group Complaints Policy
- Incommunities Ltd Customer Debt Policy
- Incommunities Group Equality and Diversity Policy
- Incommunities Group Gas and Solid Fuel Policy
- Incommunities Group Safeguarding Vulnerable Adults and Children Policy
- Tenancy Agreement
- Incommunities Ltd. Tenure & Starter Tenancy Policy
- Sadeh Lok Ltd. Tenure & Starter Tenancy Policy
- Incommunities Ltd. Empty Homes Policy