

KNOWES HOUSING ASSOCIATION LTD	
Policy Name	Death of a Tenant
Policy Category	Housing Management
Policy Number	HM02
Previous Review	February 2024
Next Review Date	February 2027
Links to other Policies	Allocations – HM04, Abandonment – HM10, Void Management – HM14 & Succession to Tenancy – HM07
Consultation	Committee and Staff

1. AIMS & OBJECTIVES

- 1.1 It is the aim of Knowes Housing Association to deal with cases of death in a sympathetic and professional manner. Whilst taking account of the bereaved family's loss, the Association must remain vigilant of its business needs, and ensure the most effective use of stock and that rent loss is minimised.
- 1.2 The objective of this policy is to clarify the Associations position and to give staff guidance when dealing with situations involving deceased tenants. This Policy is also for use as an operational document and therefore contains elements of a procedural nature.

2. RISK MANAGEMENT

- 2.1 By having a written detailed Death of a Tenant Policy the Association can ensure that a uniform and professional approach is adopted throughout the organisation and the service delivered is compliant with law, best practice and internal policy. In addition, this policy will help minimise rent loss.
- 2.2 The risk of not having this policy in place is an absence of the above, the Association being open to mis-management, bias, unfairness and inequality and a poor reputation.

3. LEGAL BACKGROUND & COMPLIANCE

- 3.1 The key legislation influencing this policy is the Housing (Scotland) Act 2001, Scotland Act 1998, the National Assistance Act 1948 and the General Data Protection Act 2018.
- 3.2 This policy and Knowes' general approach to dealing with situations involving deceased tenants is based on good practice such as SFHA's Raising Standards document on Void Management Appendix 5 – "Example Policy for the Death of a Tenant" and the practical advice booklet 'What to do after a death in Scotland' by the Scottish Government. This Policy also complies with the Scottish Social Housing Charter;
- Charter Outcome 2 - Communication

4. TENANCY END DATE

- 4.1 Delegated authority for managing any cases where a tenant passes away will be the responsibility of the Allocations Officer, with support from the Housing Officer in their absence. When we receive notification of the death of a tenant, where no person qualifies to succeed the tenancy, a period of up to two weeks should be allowed for the house to be cleared. The Association recognise the difficulties and sensitivities associated with clearing belongings of a deceased person, therefore the Head of Housing has the discretion to extend this period. A standard letter is issued to the next of kin, where we have the address of the family/person dealing with the bereavement, (**see Appendix 1**).
- 4.2 In the event of the death of a tenant when there is no qualifying person to succeed to the tenancy, the tenancy is terminated when the Association receives the keys from the next of kin or other agency who may be dealing with the tenant's death and emptying the property of the deceased persons personal belongings. The Scottish Housing Regulator Technical Guidance 2019, states that when calculating void time and rent lost, landlords should not include, "**rent lost due to reasonable time taken to clear the house following a tenant's death**". In addition it states the following; When calculating the time taken to re-let, do not include periods where the property was empty due to: "**reasonable time taken to clear the house following a tenant's death**".

The Law states that that the tenancy should end on the date of the death of the tenant, however taking into account the above guidance from the SHR and advice from the Associations Legal advisers who have confirmed that it is a question of practice and policy, the Association has taken the position of ending the tenancy when we receive the keys from the next of kin.

- 4.3 Rights to housing benefit normally end on the death of the tenant. The Association has the discretion to claim the tenant's estate for any rent accrued after the tenant's death if applicable.

5. TERMINATING THE TENANCY/SUCCESSION TO TENANCY

- 5.1 If there is a qualified person(s), reference should be made to the Succession Policy – HM07. Persons claiming the right to succeed to a tenancy should inform the Association within 28 days of the tenant's death.
- 5.2 Persons who fail to provide adequate proof of residency to succeed to the tenancy within 28 days will be informed that they have no legal entitlement to the tenancy and failure to vacate the property and remove their belongings will result in summary court action being taken to recover the property and reclaim loss of rental income. In these circumstances the Allocations Officer shall advise the Head of Housing who will seek legal advice.

6. NEXT OF KIN / CLOSEST RELATIVES

- 6.1 In the vast majority of deaths, the Association are contacted by the next of kin or relatives of the deceased who take control of all the furniture and personal effects left in the property.
- 6.2 A Death Certificate is paramount to end the tenancy and must be obtained from the next of kin or relatives at the earliest convenience. This will also act as proof to the identity of the next of kin and/or relatives. If there is any doubt as to the identity of the person claiming to be the next of kin or relative, further checks must be carried out e.g. I.D. etc.
- 6.3 The next of kin or relatives should be asked to clear the property as quickly as possible (normally within two weeks, however the Head of Housing has overall discretion on this).
- 6.4 If the next of kin or relatives are unwilling or unable to take responsibility for clearing the property, they should be asked to sign a mandate (**Appendix 2**) allowing the Association to clear the property and dispose of any items therein.

7. WHEN THERE IS NO NEXT OF KIN OR RELATIVES

- 7.1 If there is no next of kin the estate legally becomes ownership of the Government.
- 7.2 In cases of suspicious death or where no next of kin or relatives are involved, the Police will in all probability be dealing with this situation, if however they are not, they must be contacted immediately.

- 7.3 The Police thereafter will be responsible for contacting one or both of the agencies responsible for funeral arrangements and executing the estate. The agencies referred to are the Local Authority – Environmental Health Department and the Local Procurator Fiscal.
- 7.4 Local authorities have a legal obligation to organise and pay for the funeral of a person who has no next of kin.
- 7.5 West Dunbartonshire Councils' Environmental Health Department are responsible for dealing with these situations.
- 7.6 If no next of kin has been established, the Police will contact the Local Procurator Fiscal and pass all details to them. The contact telephone number for the Local Fiscal is 0300 0203000, and Email Address: PFODumbarton@copfs.gov.uk. The Local Fiscal will investigate and liaise with both ourselves, and if necessary the 'Queen's and Lord's Treasurer's and Rememberancer' (QLTR)
- 7.7 Once the Local Fiscal has concluded their investigation they will contact ourselves with their findings. If a next of kin has been established, they should be encouraged to empty the property as per section 6 of this Policy. If no next of kin has been established the Local Fiscal will advise what should happen to the furniture and personal effects that have been left in the property.
- 7.8 The Housing Officer will compile a full inventory of furniture and personal effects as per section 9 of this policy. These cannot be removed until authorised by the Local Fiscal, who in most cases will have already consulted with the QLTR.

8. ENTERING THE PREMISES

- 8.1 If the Police or the Association receive information about a suspected death in a property, the Police will deal with this situation. They will force access if required and investigate the circumstances of the tenant's death. They will contact any next of kin or relatives and pass the details and/or keys to the Housing Office. If there is no next of kin or relatives the Police will contact the Local Procurator Fiscal who will carry out their own investigations.

9. SEARCHING THE PREMISES AND TAKING THE INVENTORY

- 9.1 When the Police and Local Fiscal have concluded their investigations, the Housing Officers who take entry of the property will complete a full inventory (**Appendix 3**) of each room and where possible, take digital photographs of any goods found in the property.

9.2 Once the inventory has been completed and quantified it must be signed by both Housing Officers, thereafter the Void Management procedure should commence.

10. POLICY REPORTING

10.1 The Allocations Officer will register all deaths using the termination of tenancy form and loading it onto the QL computer system. The Head of Housing will report these and all other void figures quarterly to the Housing Management Sub Committee.

11. APPEALS

11.1 Any tenant who feels aggrieved by their treatment under this Policy can ask for a copy of the Association's Complaints Policy which is available at the Associations Office. You also have a right to complain to the Public Services Ombudsman. The Complaints Policy details the way in which you can complain and the timescales for responding.

12. EQUALITIES COMMITMENT

12.1 Knowes Housing Association Ltd is committed to tackling discrimination on the grounds of sex or marital status, racial grounds, or grounds of disability, age, sexual orientation, language, social origin, or of other personal attributes, including beliefs or opinions, such as religious beliefs or political opinions.

12.2 Knowes' seek to embrace diversity, promote equal opportunities for all and eliminate any unlawful discrimination in all areas of our work.

APPENDIX 1

Name

Address1

Address2

Address3

PostCode

Date

Tenancy – (name and address)

I refer to the unfortunate passing away of (name) who resided at (address), and understand that you are dealing with the late Mr/Mrs,(name) Estate. The following will guide you on what you need to know when dealing with the property.

Succession Of Tenancy

According to our records there is no succession to the tenancy.

Death Certificate

If you have not already done so could you please provide the Association with a copy of the death certificate for our records. This will allow us to inform Housing Benefit and Council Tax Sections in West Dunbartonshire Council.

Clearing the Property

The Association needs the property to be cleared of all belongings, floor coverings and furnishings prior to the keys being returned.

Return of Keys

Can I ask that the keys to the property are handed to the Association by the (date). Unfortunately if the keys are not returned by the agreed date the Association will change the locks and dispose of any items remaining in the property therefore if you require more time please contact me and this can be discussed but please bear in mind that it is only under exceptional circumstances where we would give an extension to this time. If we do have to dispose of items left in the property there will be a cost for this which we may invoice the estate.

Rent Charge

Rent will continue to be charged on the property up to the date that the keys are returned to the Association. An invoice may be issued to the estate covering any outstanding balance on the account.

When keys are returned and there is a rent credit and we have confirmed that there are no other outstanding debts then this will be passed to the deceased estate.

To allow us to manage the rent account, and any other issue around the tenancy, we would be grateful if details of who is the executor of the estate can be passed to us.

Should you need to discuss any issue in relation to this matter please contact me on (telephone no).

Yours sincerely

A handwritten signature in black ink, appearing to read 'K Grainger', written in a cursive style.

Karen Grainger
Allocations Officer

Appendix 2

MANDATE TO DISPOSE OF BELONGINGS

TENANT(S) NAME:

ADDRESS:

DATE OF DEATH:

I (Next of kin / Relative) hereby authorise Knowes Housing Association to dispose of all items of furniture and personal belongings found in the property at;

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Signed :

Date :

Witness :

Date :

APPENDIX 3 PROPERTY INVENTORY

TENANT(S) NAME:

ADDRESS:

DATE OF TENANCY TERMINATION:

DATE ACCESS FORCED:

DETAILS OF FURNISHINGS/POSSESSIONS FOUND IN PROPERTY

<i>Room</i>	<i>Detail (Condition) (Value)</i>	<i>Approx. Value</i>
Living Room		
Kitchen		
Hall		
Bedrooms 1.		

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APPROXIMATE VALUE OF GOODS:

OUTSTANDING DEBT OWED TO HOUSING ASSOCIATION:

APPROXIMATE VALUE FOR STORAGE: £1,300

RECOMMENDATION – STORE/DISPOSE (delete as required)

HOUSING OFFICER..... DATE.....

HOUSING OFFICER..... DATE.....

RECOMMENDATION AGREED

HEAD OF HOUSING

DATE

DATE GOODS DISPOSED OF/RETURNED: