



Abandonment, unauthorised occupant, squatting and sub-letting policy

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1. INTRODUCTION

- 1.1 The policy sets out Ekaya Housing Association's (Ekaya's) approach to dealing with abandoned properties and managing unauthorised occupants, squatters and sub-letting across our portfolio.
- 1.2 Ekaya aims to ensure that all properties are occupied by the legitimate tenants and that steps are taken as quickly as possible to recover possession of properties which have been abandoned and are empty, or which have been sub-let or, in some other way, occupied by unauthorised persons.

2. Scope

- 2.1 The policy applies to all properties owned and managed by Ekaya and covers:
 - Abandonment
 - unauthorised occupation
 - Squatters
 - Sub-letting

3. Legal and Regulatory Framework

- 3.1 It is a condition of tenancy agreements that tenants must provide notice of their intention to quit the property and request permission to sub-let any part of their home. In addition, the following legislation applies:
 - Housing Act 1985, 1988 1996 as amended
 - Legal Aid, Sentencing and Punishment of Offenders Act 2012
 - Anti-Social Behaviour, Crime and Policing Act 2014 as amended
 - Torts (Interference with Goods) Act 1977
 - The Regulatory Reform (Fire Safety) Order 2005

4. Definitions

- 4.1 **Abandonment:** is where the tenant vacates the property without giving notice or handing in the keys to the landlord.
- 4.2 **Unauthorised Occupant:** Someone who has no contractual right or permission to occupy our property or whose continued occupation is unlawful because it is a breach of the express terms of the tenancy, license or lease.
- 4.3 **Sub-letting:** is where the tenant lets out part or all of the property to another individual(s) and charges rent. Tenants have the right to sub-let part of their property with Ekaya's permission; therefore this policy only applies when the tenant has sub-let the whole property.
- 4.4 **Squatting:** Squatting is not a legal term but is commonly used to describe a trespasser who enters and lives in a property or on land without the permission of the owner or the person legally entitled to occupy it (for example, a tenant).

5. Aims and Objectives

- 5.1 The key objectives of this policy are to:
 - underpin Ekaya's zero-tolerance approach to housing fraud, seeking recovery of unlawfully

occupied homes and where possible seeking prosecution (Prevention of Social Housing Act 2013) www.legislation.gov.uk/ukpga/2013

- proactively prevent fraudulent activity including the use of technology to validate genuine identification and documentation
- raise awareness amongst staff and the public to report suspected cases of tenancy fraud to Ekaya to deal effectively with reports and observations of tenancy fraud
- work in partnership with Local Authorities and stakeholders to share information, data, and resources where appropriate
- prevent the creation of unintended tenancies and rights of occupation by managing house sitters effectively
- identify, repossess and re-let properties as quickly as possible in order to minimise the rent loss resulting from abandoned properties

6. Abandonment

6.1 We will monitor schemes and properties to minimise occurrences of abandonment and act swiftly to repossess the property when we find tenant has abandoned.

6.2 Tenant responsibility

6.2.1 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.

6.2.2 Tenants are entitled to be absent from their properties for a temporary period as long as they notify the association in writing for absence of more than 28 days.

6.2.3 The following are generally accepted as valid reasons for temporary absence:

- Having a short prison sentence
- Staying in hospital
- Living in student accommodation in term time
- Living in alternative accommodation as a result of domestic abuse
- Staying with relatives to receive or provide support and care
- Having fixed term employment elsewhere
- Going on an extended holiday

6.2.4 Where absence is due to a prison sentence we consider the following before making a decision on how to proceed:

- the nature of the crime
- expected duration of absence
- ability to pay the rent for the duration

6.2.5 Any serious offence committed, as listed in the Anti-Social behaviour, Crime and policing Act Schedule 2A - will be deemed a serious breach of tenancy and we will seek a court order for the possession.

6.3 Investigation

6.3.1 Ekaya will investigate all cases where there is legitimate reason to believe that a property is no longer occupied, and will make all reasonable checks before taking action to repossess the property. We consider a property to be abandoned if the conclusion can be reached that the tenant has no intention to return.

6.3.2 An abandoned property will normally meet most or all the following criteria:

- The rent is not being paid
- Housing benefit or Universal Credit housing element has stopped
- The customer appears to have removed all or most of their personal belongings from the property
- A large amount of post has accumulated
- The property is insecure but this has not been reported by the tenant
- The tenant is no longer registered for council tax, has requested to be removed from the electoral role 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

6.3.3 We will make every effort to contact the absent tenant to see if they have any intention of returning and warn them that their home is at risk. When attempting to establish whether a property has been abandoned we will have regard to the tenant's welfare, safety and legal rights. If they are known to be vulnerable, we will contact all relevant support agencies and next of kin as appropriate.

6.3.4 Where we have established that the property is no longer the only and principal home of the legal occupier, we take steps to repossess the property by serving appropriate Notice to Quit (NTQ) and/or Notice of Seeking Possession without prejudice to the NTQ.

6.4 Goods left in properties or communal areas

6.4.1 There may be instances where goods are left in properties. This can be as a result of an eviction, death, or a tenant abandoning without giving due notice. A **Tort** notice will be served to clear the property of goods to enable the property to be re-let in a timely manner.

6.4.2 We will advise tenants that goods **must** be cleared at the end of a tenancy and inform former tenants when we intend to dispose of their goods where possible

6.4.3 Wherever possible, Ekaya will seek to recover the cost of storing and/or disposing of goods left in properties.

6.4.3 Legal Guidance/ Background

Torts (Interference with Goods) Act 1977 - This Act **governs the sale and disposal of** goods, particularly abandoned goods. The Act requires a Tort notice to be served before any goods are removed and disposed of. A Tort notice gives the owner of the goods time to remove the items themselves. If the customer fails to remove the goods within the allotted time, the goods can be sold or disposed of.

The Regulatory Reform (Fire Safety) Order 2005 - This regulation requires landlords to assess the risk of fire in their properties and take adequate precautions to reduce the risk. It places a duty on landlords to keep communal areas in a safe condition and to remove any goods in case they cause a fire risk.

The Housing Act 2004 - places a duty on landlords to carry out thorough risk assessments including fire risk assessments.

6.4.4 Definition of goods

6.4.5 The legal definition of 'goods' is anything that has a monetary value. Ekaya will use the commonly accepted definition of goods which include all the items (and others) listed below:

- Decorations such as paintings, baskets, vases and statues

- DIY equipment such as ladders, tools and tool boxes
- Electrical goods such as televisions, washing machines, cookers and stereos
- Furniture such as beds and wardrobes
- Gardening equipment such as lawnmowers, garden tools and buckets
- Items of clothing such as blankets, duvets, shoes and coats
- Toys and any other children's' items including bicycles, buggies and pushchairs

6.4.6 Tenants' Responsibilities

6.4.7 It is the responsibility of all tenants to abide by the terms of their tenancy agreement and the Tenants' Handbook, which include requirements to:

- a) Comply with Fire and Health and Safety regulations
- b) Remove all possessions from the property at the end of their tenancy
- c) Ensure that communal areas are kept free from all obstructions
- d) Not store any belongings in the communal areas

6.4.8 Notifications

6.4.9 We will make every effort to trace the owner of goods left either in a property or in a communal area. We may ask neighbours if they know the whereabouts of the owner. Letters will also be written and hand delivered to tenants asking them to remove any items left in the communal areas within 14 working days.

6.4.10 We will always immediately dispose of perishable or hazardous goods as well as anything that appears to be rubbish.

6.4.11 If tenants fail to remove their items in the communal areas by the deadline, we will remove these items and any costs incurred will be passed on to the owner.

6.4.12 When we contact tenants who have left items in the property after the end of their tenancy we will give them a reasonable period of time to collect the goods. The notice period will depend on the circumstances. Sometimes we will move goods straight away to prevent a fire risk.

6.4.13 Record Keeping

6.4.14 We ensure that an inventory is taken of all abandoned goods including photographs before taking any action.

6.4.15 If we are not sure who the owner of communal goods is, a notice along with pictures of the goods will be placed on the goods in the communal where these exist. If items remain unclaimed within 5 working days they will be sold or disposed of.

6.4.16 Storage

6.4.17 Ekaya does not have storage facilities, so if a tenant fails to collect their goods within the allocated time, we exercise our right to sell/ or dispose the goods concerned. Where the goods are sold, we will deduct the cost of removal and storage and recoup monies to pay any outstanding debt to Ekaya.

7. Unauthorised occupant, sub-letting and squatters

7.1 An unauthorised occupant is someone who has no contractual right or permission to occupy the property or whose continued occupation is unlawful because it is a breach of the express terms of the tenancy or lease.

7.2 An unauthorised occupant can be:

- a lodger, partner or family member who has remained in occupation after the tenant has vacated or died
- someone who has sub-let the whole of the property from a assured tenant
- someone who has sub-let any part of the property from an assured short hold tenant
- someone who has sub-let the whole of the property from the leaseholder without the leaseholder informing us and/or obtaining written permission, as specified by the terms of the lease

7.3 We will maintain comprehensive and accurate resident's information and we encourage residents to inform us of any change in their circumstances and to inform us if they are going away from the property for any significant period; usually this is 28 days or more.

7.4 **Investigation of unauthorised occupants, subletting and squatters**

7.5 We will take prompt action as soon as an unauthorised occupation is suspected by:

- investigating all reports of unauthorised occupancy to ascertain whether the tenant has illegally sublet the whole or part of the property in breach of the terms of their tenancy agreement
- initiate the appropriate legal action to recover the possession of the property and recover all costs incurred in making good any damages to the property and any legal costs
- write to the unauthorised occupant that any payment received is for the use and occupation charge and not rent
- establishing if squatting has occurred, where squatting is detected we will take effective action, including notifying the Police or applying for and obtaining an interim possession order
- serve an appropriate Notice to Quit and/or Notice of Seeking Possession

7.6 To assist Ekaya with monitoring unauthorised occupancy, we will annually conduct a tenancy audit, checking a % of properties to ensure the property is occupied by the household Ekaya let the property to.

8. **Value for Money**

8.1 In order to make the best use of its resources, Ekaya will respond quickly to any reports of unauthorised occupancy and actively promote tenants to report any suspected cases. This will ensure that rental income is maximised and the property is occupied by the intended tenant.

9. **Related policies and procedures**

This policy is supported by detailed procedures for each area covered by the policy.

- Allocation policy
- Void policy
- Anti social Behaviour policy
- Fire safety policy
- Recharge Policy

10. Policy Approval

Approval date: February 2022

Approved by: Policy & Performance Committee

Policy Author: Housing Services Manager

Policy Owner: Head of Operations

Consultation completed: **January 2022**

Review gateway: Policy & Performance Committee

Next review date: February 2025