

DEATH OF A TENANT POLICY

1. Introduction

- 1.1 It is the aim of Ayrshire Housing to deal with cases of death in a sympathetic and professional manner. Whilst taking account of the bereaved family's loss, the association must ensure that any rent loss is minimised.
- 1.2 The objective of this policy is to clarify the association's 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. Notification of the Death of a Tenant

- 2.1 When we receive notification of the death of a tenant and 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 Services has the discretion to extend this period.

3. Terminating the Tenancy

- 3.1 In the event of a death of a tenant when there is no qualified person to succeed to the tenancy, the tenancy is terminated on notification of the tenant's death, by using the date of death as the tenancy end date. Ayrshire Housing has the discretion to claim the tenant's estate for any rent accrued after the tenant's death if applicable. Should the next of kin or close relative or whoever is taking responsibility for clearing the property, request a further period to clear the property they will be asked to pay the property rent charge for this period.
- 3.2 If there is a qualified person(s), reference should be made to the Succession Policy. Persons claiming the right to succeed to a tenancy should inform the association within 28 days of the tenant's death.
- 3.3 Persons who fail to meet the eligibility criteria detailed in the Succession Policy to succeed to the tenancy 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 Housing Officer/Housing Assistant shall advise the Head of Housing Services who will seek appropriate legal advice as to removing any persons not entitled to succeed to the tenancy.

4. Next of Kin/Close Relatives

- 4.1 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. A Death Certificate is essential to end the tenancy and must

Adopted: February 2021 (approved at Board Meeting)

Reviewed:

Current To: February 2026

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. 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 Services has discretion to extend this period if extenuating circumstances are present). 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 allowing the association to clear the property and dispose of any items therein.

5. When There is No Next of Kin or Relatives

- 5.1 If there is no next of kin the estate legally becomes ownership of the Government. 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. 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 and the Local Procurator Fiscal. Local authorities have a legal obligation to organise and pay for the funeral of a person who has no next of kin. If a next of kin has been established, they should be encouraged to empty the property as per section 4 of this Policy.

The Procurator Fiscal will investigate and liaise with both ourselves, and if necessary the 'Queen's and Lord's Treasurer's and Rememberancer'. Once the Procurator Fiscal has concluded their investigations they will contact us with their findings. If a next of kin has been established, we should encourage them to empty the property as soon as possible within two weeks, although this can be discretionary. If no next of kin has been established the Procurator Fiscal will inform us what should happen to the furniture and personal effects that have been left in the property. We will compile a full inventory of furniture and personal effects. These cannot be removed until authorised by the Local Fiscal, who in most cases will have already consulted with the 'Queen's and Lord's Treasurer's and Rememberancer".

6. Refunds of Credit Balances

- 6.1 If anyone is seeking a refund of any credit left on the rent account they will normally require "confirmation" from the Sheriff Court.

Confirmation is a legal document granted by the court which provides the individual with the authority to administer the deceased's estate, and without this authority our solicitors have indicated they would not normally advise us to release any funds.

7. Entering the Premises

- 6.1 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

Adopted: February 2021 (approved at Board Meeting)

Reviewed:

Current To: February 2026

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 Ayrshire Housing. If there is no next of kin or relatives the Police will contact the local Procurator Fiscal who will carry out their own investigations. When the Police and Procurator Fiscal have concluded their investigations the Void Management procedure should commence.

- 7.2 When the Police and Procurator Fiscal have concluded their investigations, Ayrshire Housing staff will compile a full inventory of each room and where possible, take digital photographs of any goods found in the property. Once the inventory has been completed it must be signed and witnessed by 2 staff members. Our empty homes management policy and procedure will begin at this point.

If there is a small amount of cash (less than £50) it should be recorded and witnessed by the 2 members of staff. It should be kept securely in our office or banked, pending a decision as to what should be done with it. If the amount exceeds £50, the Procurator Fiscal should be informed and they will notify the 'Queen's and Lord's Treasurer's and Rememberancer'. Any items removed will be noted and receipted by both members of staff present.

8. Equalities and Human Rights

- 7.1 Ayrshire Housing is committed to equal and fair treatment of all sections of the community. Accordingly, no person will be discriminated against during the implementation of this policy on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation. In delivering this policy, Ayrshire Housing's staff will comply fully with the requirements of the association's Equalities and Human Rights Policy.

9. Complaints

- 9.1 Any individual who is dissatisfied with the service experienced should be encouraged to provide feedback. Complaints regarding the implementation of this policy will be dealt with in accordance with the association's corporate Customer Complaints Policy and associated procedures.