



End of Tenancy Policy

SER-POL-35

Version 1.0

Date approved: 20 May 2014

Approved by: Board

1. Introduction

- 1.1 Southway Housing Trust (Southway) tenants enjoy security of tenure by virtue of the contractual rights conveyed within the various Tenancy Agreements used and through statutory protection from unlawful eviction.
- 1.2 When tenancies end, or are approaching their ending, it is important that proper guidance is available and understood by Southway officers and by tenants and their families. This is required to protect Southway's interests in terms of potential rent and void loss, and to provide clarity to tenants about how their tenancy will be ended. This policy provides such guidance.

Objectives

- 1.3 The key objectives of this policy are to:
- (a) Ensure that all tenants ending their tenancies are treated in a fair and equitable manner;
 - (b) Ensure that Southway acts reasonably and sympathetically towards people who are experiencing the stress of a tenancy termination
 - (c) Recognise and protect the legal rights of all members of a tenant's household;
 - (d) Ensure that Southway at all times meets its legal obligations and operates in accordance with the law and good practice; and
 - (e) Protect Southway by minimising rent loss and void (empty property) periods.

Scope

- 1.4 This policy applies to all Southway accommodation. It should be read in conjunction with other Southway policies which lead to tenancy termination.
- 1.5 Principally this policy will apply in the following circumstances where tenancies are ended or are about to be ended:
- Notice to Quit from the tenant;
 - Possession through eviction proceedings;
 - Abandonment and implied surrender; and
 - Death of the tenant.

2. Notice to Quit from the Tenant

- 2.1 The overwhelming reason for tenancy end is Notice to Quit provided by the outgoing tenant. Southway's Tenancy Agreement sets out the contractual obligations on the tenant in respect of Notice.
- 2.2 Southway requires four weeks notice in writing and all tenancies will expire at 12 noon on the Monday of the week that the tenancy is due to end. In certain circumstances exceptions to the four week requirement may be agreed, at the discretion of the Head of Neighbourhood Services (or another senior manager).
- 2.3 Upon receipt of Notice to Quit Southway will write to the tenant to explain the requirements of the ending of the tenancy, including:
- (a) The return of all keys to the property by 12 noon, to Southway's main office;
 - (b) Vacant possession of the premises in clean and good repair, with all furniture and effects removed;
 - (c) Agreement upon any outstanding debts; and
 - (d) Liability for recharges, if parts a, b and c are not resolved satisfactorily.

3. Possession through Eviction Proceedings

- 3.1 Southway will end a small proportion of tenancies through application to the Courts for possession. The majority of possession actions are arrears cases; a smaller proportion will be for other breaches of tenancy.
- 3.2 Once a Possession Order has been obtained Southway will write to the tenant to inform them of the eviction date and time. Southway will also explain the requirements of the ending of the tenancy, as set out above at paragraph 2.3 with the exception that keys should be returned at or before the eviction appointment.
- 3.3 Southway will endeavour to achieve possession with as little stress for the outgoing tenant as is possible in the circumstances. We will also work to achieve vacant possession on eviction day, in order to minimise further complications regarding goods remaining at the property following the eviction.

- 3.4 Where there are vulnerable persons and/or children involved in possession proceedings, Southway will contact Social Services and/or other support agencies to request support for the household that is being evicted.
- 3.5 All evictions will be attended by representatives of Southway. In circumstances where there is a health and safety risk to Southway staff at eviction, we will work in partnership with the Police to ensure the safety of those present.

4. Abandonment and Implied Surrender

- 4.1 Southway is committed to dealing with circumstances of abandonment and implied surrender of tenancy in a prompt and timely manner. Implied surrender typically occurs when a tenant returns the keys to a property with no other Notice information.
- 4.2 There are often potentially competing requirements in dealing with these cases: that of bringing a property back into use as quickly as possible versus that of making sufficient investigations before recovering possession to ensure that an empty property is genuinely abandoned.
- 4.3 It is recognised that the absence of a tenant does not in itself constitute failure to use the accommodation as the tenant's "principal home"; this concept has more to do with the tenant's intentions and how these are demonstrated. Guidance and training is provided to officers to complete necessary investigations.
- 4.4 Southway will use the correct legal procedures to recover possession, including Notice to Quit and Notice of Seeking Possession as appropriate.
- 4.5 Southway may in exceptional circumstances decide not to make an application to the Court before recovering possession, typically where abandonment occurs prior to possession proceedings being finalised or where there is evidence that the former tenant has obtained a new tenancy elsewhere.

5. Death of the Tenant

- 5.1 The tenancy does not end on the date of a tenant's death.
- 5.2 In the case of the death of a tenant or joint tenant, Southway will deal sensitively and quickly with a remaining joint tenant, potential successor(s) and family member(s).

- 5.3 At the time that Southway is notified of the tenant's death, the next-of-kin of the deceased or the personal representative of the Estate should be identified and all future correspondence should be directed to that person.
- 5.4 Southway's Allocations Policy provides guidance on dealing with succession.
- 5.5 In cases where no succession takes place, the tenancy will need to be ended. Where there is nobody with the right to succeed the tenancy, the next-of-kin or personal representative of the Estate will need to supply a copy of the Death Certificate and provide four weeks notice in writing in the usual manner. Southway will take steps to promptly end the tenancy whilst working collaboratively with the family of the deceased.
- 5.6 If the next-of-kin or representative is able to return keys to Southway within the first two weeks of this notice period, Southway will waive the rent for the remainder of the notice period. If the next of kin or representative requires more than two weeks then the rent for the whole four week notice period will be charged to the Estate.
- 5.7 Any outstanding rent will be charged to the late tenant's Estate. If rent has been paid in advance we will refund this to the tenant's Estate.
- 5.8 If the late tenant received Housing Benefit this will automatically be cancelled from the date of their death, and full rent will become payable until the property is cleared and the keys are returned to Southway.

6. People Remaining in the Property at the End of a Tenancy

- 6.1 Following the end of a tenancy, Southway will require vacant possession. Southway will deal sympathetically but promptly with any persons remaining in a property following the end of a tenancy. We will use appropriate legal remedies to remove illegal occupants from our properties.
- 6.2 We may use our discretion in exceptional circumstances, for instance to grant discretionary succession (see the Allocations Policy). Any such decisions will be taken promptly and at the discretion of the Director of Neighbourhood Services or the Chief Executive.

7. Goods Left at the End of a Tenancy

- 7.1 On occasion goods are left at a premises following the end of a tenancy. Typically this occurs when a tenant dies without any family or when a property is recovered through possession proceedings.

- 7.2 In these cases, goods left in the premises remain the property of the former tenant property and Southway becomes an involuntary bailee (a person who has, without their consent, found themselves in possession of goods belonging to another).
- 7.3 Southway will attempt to establish if the goods have been abandoned using the prescribed legal processes. Once all reasonable steps have been taken to contact the former tenant and it is reasonable to assume the goods have been abandoned, Southway will be free to dispose of them.
- 7.4 In order to protect Southway from future claims, a record of all attempts to contact the former tenant will be retained, a photographic inventory of goods will be taken before disposing of them and a record of the costs involved will be kept.

8. Monitoring and Evaluation

- 8.1 Officers will record details of how its tenancies end and report this detail to the Executive Leadership Team on request.

9. Equality and Diversity

- 9.1 Southway will ensure that this policy is applied fairly to all our customers. For example, publications and communications around ending a tenancy will be made available in accessible formats such as Braille and large print.
- 9.2 The policy will help to deliver actions in relation to which the needs of vulnerable people, children and bereaved families will need to be taken into account.

10. Related Policy Documents

- Allocations Policy

POLICY REVIEW HISTORY	
<i>To be completed during each review</i>	
Previous versions (version number – approved by – approval date – title if different) N/A	
Date of last EIA:	Squatter and Illegal Occupant Policy: May 2011
Review lead by:	David Squires, Head of Neighbourhood Services
Main points or amendments made and reasons	
<ul style="list-style-type: none"> ▪ Incorporates the Squatter and Illegal Occupant Policy and the Abandoned Property Policy. ▪ Provides fresh clarity on an important issue for both tenants and staff. 	
Next review due:	Q1 2017/18
Review level:	C (ELT)