

# **KINGDOM HOUSING ASSOCIATION LIMITED**

## **SUB-LETTING POLICY**

### **1. Statement of Intent**

The purpose of this policy is to outline Kingdom's requirement to accept and consider any application to sub-let a tenancy (or part of a tenancy) as set out in the Housing (Scotland) Act 2001.

### **2. General Principles**

#### **2.1 Application to Sub-let a Tenancy**

Kingdom will consider any application to sub-let a tenancy where the tenant has formally applied in writing for permission to do so.

A copy of the proposed sub-let agreement which is to be entered into between the tenant and sub-tenant should be passed to Kingdom along with the application. The sub-let agreement should be a legally framed Short Assured Tenancy and in line with this an AT5\* form will be required to be served on the sub-tenant by the tenant and a copy of this should also be included with the application.

Consent to sub-let a tenancy will only be given where it is reasonable to do so in consideration of the circumstances of the sub-letting arrangement.

Permission to sub-let will not normally be granted for more than a 6 month period. This period may be extended or renewed in exceptional circumstances.

#### **2.2 Assessment of an Application to Sub-let**

In assessing an application, Kingdom will not withhold consent unreasonably.

The assessment process will take account of both the tenant's and the sub-tenant's circumstances both of which should satisfy the criteria set down in Section 32 and Part 2 of Schedule 5 of the Housing (Scotland) Act 2001 regarding an application to sub-let a Scottish Secure Tenancy.

\*AT5 form – This form must be served on a prospective tenant by the landlord before the tenancy begins. The AT5 informs the tenant that the tenancy is a Short Assured Tenancy in terms of Section 32 of the Housing (Scotland) Act 1988. The form must be served by giving it to the tenant personally or sent by recorded delivery to the tenant's last known address.

### 2.3 Reasons for Which An Application May Be Refused

Although the list is not exhaustive, below are some of the grounds under which an application to sub-let may be refused:-

- a) A Notice of Recovery of Possession has been served against on the tenant on any of the “conduct grounds” set out in paragraphs 1-7 of Schedule 2 of the Housing (Scotland) Act 2001.
- b) An Order for Recovery of Possession has been made against the tenant.
- c) A payment has been received by the tenant, in cash or in kind, in consideration of the sub-let other than a reasonable rent or deposit.
- d) The sub-let would lead to an overcrowding situation.
- e) Kingdom intends to carry out substantial work on the property.
- f) The property in question has had substantial adaptation or has design features which are not required by the sub-tenant or their household.
- g) Where there is substantial damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property.
- h) Where a scheme has been specifically designated for a particular type of tenant such as elderly Chinese, sheltered housing, over 55 year olds and the prospective sub-tenant does not meet the criteria.
- i) Where the term or the conditions of the sub-letting arrangement are deemed to be unreasonable.
- j) The tenant has outstanding debt owed to Kingdom in terms of their tenancy.
- k) The prospective sub-tenant has deliberately omitted, distorted or given false information on their application.
- l) The prospective sub-tenant has pursued a course of anti social behaviour or has been convicted of using a previous tenancy for illegal or immoral purposes or has an ASBO out against them within the past 3 years.
- m) The house is unsuitable for the prospective sub-tenant’s needs.

### 2.4 Notification of Decision

Kingdom will notify the tenant in writing of its decision within 28 days of receiving their application. Where consent to sub-let has been refused we will advise the tenant of the reason/s for refusing consent. If Kingdom has not made a decision to refuse or to consent to a sub-let within 28 days of receiving the written application Kingdom will be deemed to have consented to the same under and in terms of Schedule 5, Part 2, Para 12 of the Housing Scotland 2001 Act.

### **3. The Role of the Housing Services Department**

The recording of applications to sub-let is the responsibility of the Customer Services team.

The appropriate Housing Officer is responsible for the processing of all applications to sub-let.

### **4. Appeals Process**

Any appeal on a decision where consent had been refused should be made to the Housing Manager. Where the Housing Manager upholds the original decision the tenant can pursue any further grievance through Kingdom's Complaints Procedure. This does not prejudice the tenant's right to raise a Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

### **5. Review**

This policy will be reviewed 5 years from the date of implementation, which will be the date the policy is approved by the Committee of Management or earlier if deemed appropriate.

**KINGDOM HOUSING ASSOCIATION LIMITED**

**POLICY ON SUB-LETTING**

Policy drawn up with reference to:

Housing Scotland (2001) Act  
Data Protection Act (1998)

Reference made to the following sources and other guidance:

Prepared by: Linda Hamilton

Current Policy dated December 2002

Draft 1 Circulated to Directors for review

Policy audited by Kingdom's solicitors October 2006

Sub Committee Review of Policy 12.2.07

Presented for approval to Committee of Management on 19.3.07

Policy Approved Yes

Next review date: December 2012