

KINGDOM HOUSING ASSOCIATION LIMITED

TENANCY SUCCESSION POLICY

1.0 Statement of Intent

- 1.1 The purpose of this policy is to outline the Kingdom's management of succession rights to Kingdom tenancies as prescribed by the Housing (Scotland) Act 2001 ["the Act"].

2.0 Application to Succeed to a Tenancy

Kingdom will respond to any claim for succession rights to a tenancy in accordance with the qualifying criteria specified in the Act and any modifying legislation to follow on from it. In terms of the Act we are only obliged to award a succession on two occasions, however we will consider any subsequent succession having due regard to the circumstances prevailing at the time any further application for succession rights is made.

3.0 Qualification to Succeed to a Tenancy

- 3.1 For both of the two succession occasions there are 3 levels of qualifying priority which the Kingdom must consider in sequence:

Priority 1 The first level of priority in terms of the Housing (Scotland) Act 2001 is the priority given to the surviving spouse or to a joint tenant (or co-habitee of either sex, provided that the property in question has been their only or principal home for at least 6 months before the tenant's death). The right of this group of successors over-rides the right of succession of other groups who may succeed to a tenancy.

This group may succeed to the tenancy of a property which is specially adapted for wheelchair use or for some other medical condition or disability whether or not they have a medical condition or disability which means they can make use of the facilities. This means in practical terms that where the tenancy has been created in order to provide an adapted property for the deceased tenant a spouse or partner who does not have particular needs for those facilities may succeed to the tenancy

Priority 2 Should no one qualify or choose to succeed from the first priority group then the next level of priority would be other members of the deceased tenant's family if aged 16 years or over who can demonstrate that the house was their only or

principal home at the time of the tenant's death. This group may not succeed to a property which has been adapted for the deceased unless they can demonstrate that they have medical conditions or disabilities which mean they are able to use the adaptations and facilities of the property. If no special adaptations are present and the property is a mainstream house, then they may succeed to the tenancy.

Priority 3 Should no one qualify or choose to succeed from the first two priority groups then carers aged at least 16 years will qualify where the house was their only or principal home at the time of the tenant's death and where they have given up their previous only or principal home to care for the tenant or a member of the tenant's family. The restrictions upon succession to adapted properties with special facilities are exactly the same as priority group 2 in as much as the carer would be required to demonstrate that they had medical conditions and disabilities which meant that they could utilise the special facilities provided in the property.

4.0 Succession to a Tenancy

- 4.1 Where there is more than one qualifying person in the Priority 2 group they should decide among themselves who will succeed. If this cannot be agreed Kingdom may consider a joint tenancy. If this is not appropriate or if the parties do not agree to this, then Kingdom will decide who will succeed.
- 4.2 If anybody who is entitled to succeed to the tenancy under the three priority levels declines to accept the offer of the tenancy, it is Kingdom's responsibility to determine whether or not there may be other qualified parties with lesser priority to succeed to the tenancy. In these instances we will write to any such person we identify in our investigations to determine whether or not they wish to succeed to the tenancy
- 4.3 When succession to a tenancy is verified and confirmed, Kingdom will grant the succession to the qualifying person by an exchange of letters whereby the Association recognises the rights of the successor and confirms that all of the terms and conditions of the original tenancy have been conferred to the successor, the only exception being that one round of succession has already occurred which leaves one further round to take place on the death of the successor to the tenancy. The successor will indicate their acceptance of the tenancy in writing.

5.0 Termination of Tenancy

- 5.1 Where no one qualifies to succeed to the tenancy Kingdom will regard the tenancy as terminated as at the time of the death of the tenant and deal with the property in line with policies and procedures relating to empty properties.

6.0 The Role of the Housing Services Department.

The recoding of all applications to succeed a tenancy is the responsibility of the Customer Service Team. It shall be the responsibility of the Housing Officer in each team to process successions to tenancies

7.0 Appeals Process Where Consent to Succeed is Refused

- 7.1 Kingdom may not refuse to recognise a succession where a legitimate successor has been identified who meets the provisions of the Housing (Scotland) Act 2001. Kingdom is aware from time to time a number of parties may emerge who believe that they have priority to be the sole successor to the tenancy. In these cases, having taken legal advice, Kingdom may have to refuse a successor in favour of another in terms of the Act. Any appeal on a decision to refuse recognition of succession should be made to the Housing Manager in the first instance. This does not prejudice the successor's right to raise a Court action under Part 2 of Schedule 5 of the Housing (Scotland) Act 2001.

8.0 Civil Partnership Act 2004

For the purpose of succession to tenancies Kingdom will take into consideration the above legislation where a civil partnership has been registered in the terms of the Act.

9.0 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.

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Policy drawn up with reference to:

Housing Scotland (2001) Act

Civil Partnership Act 2004

Reference made to the following sources and other guidance:

Prepared by: Alex McLaren

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