



## Tenancy Succession Policy

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## TENANCY SUCCESSION POLICY

### 1. Statement of Intent

Kingdom is committed to the principles of good corporate governance and sustainability and will endeavour to develop fair consistent policies, procedures and practices.

In line with our commitment to equality and diversity, all our policies and procedures where required can be made available in a variety of formats, including large print or can be translated into other languages on request or on audio tape. Reasonable adjustments will also be made to assist individuals who have a disability.

This policy explains what we do when a tenant dies and another person is legally entitled to succeed the tenancy. The policy complies with Section 22 of the Housing (Scotland) Act 2001 and Schedule 3 of the Act which defines who is a qualifying person and the circumstances in which they can succeed.

### 2. Application to succeed to a tenancy

We will respond to any requests for succession in accordance with the qualifying criteria specified in the Act and any modifying legislation to follow on from it.

Under the Housing (Scotland) Act 2001, we are only obliged to permit two rounds of succession, however where both rounds have passed we will consider the housing needs of the remaining household members at the time any further application for succession rights is made.

### 3. Qualifying Criteria

The Housing (Scotland) Act 2001 defines a qualifying person in order of priority in which they are entitled to succeed the tenancy:

#### Priority 1

The surviving spouse, civil partner or joint tenant provided that the property was their only or principal home at the time of the tenant's death.

Where the person was living with the tenant as husband or wife, or was in a relationship with the tenant which had the characteristics of the relationship between husband or wife except that they were of the same sex, that person must have occupied the property as their only principal home for 6 months immediately prior to the date of the tenant's death.



## Priority 2

Should no one qualify or choose to succeed from the first Priority Group 1, a member of the tenant's family will be entitled to succeed to the tenancy provided that person is aged 16 years or over and can demonstrate the house was their only principal home at the date of death.

If more than one person qualifies to succeed at this level, they should decide between themselves who will succeed. Where no agreement can be reached between the qualifying persons within four weeks of the date of the tenant's death, we will decide who will succeed based on the needs and circumstances of those parties involved. We may consider a joint tenancy.

## Priority 3

Should no one qualify or choose to succeed from the first two Priority groups then the tenancy may pass by succession to a carer. A carer is a person aged 16 years and over who can demonstrate that the house was their only or principal home at the time of tenant's death and that they had given up their previous only or principal home to care for the tenant or a member of the tenant's family.

Where there is more than one person who would qualify under the same category of priority, it is expected that the qualifying persons or family members would agree between themselves who would succeed to the tenancy.

We would accept a joint application from the qualifying persons providing the succession is approved for both parties and we would consider granting a joint tenancy.

However, where no agreement can be reached by the qualifying person within 28 days of the tenant's death, we would make the decision as to who will succeed to the tenancy. In making this decision we will take into consideration factors such as:

- the wishes of the deceased which may be included in their will
- the length of time each qualifying person has actually resided in the property
- the housing needs of each applicant
- the size of the property and composition of each applicant's household
- previous conduct of each applicant within the house

The selection of the successor must be approved by the Area Manager

## 4. Specially Adapted Properties

A house that has been designed or substantially adapted for the use of persons with special needs can only pass by succession in the following circumstances:



In a first round of succession under the tenancy:

A person succeeding under the Priority 1 group detailed above, whether or not they have special needs which require accommodation of the kind provided by the house or;

a person succeeding under Priority groups 2 or 3 above only where they have such special needs requiring accommodation of the kind provided by the house.

In a second round of succession under the tenancy:

A person falling within Priority groups 1, 2 and 3 above but only where they have such special needs requiring accommodation of the kind provided by the house.

A person who would have qualified under the above circumstances but does not do so only on the basis that they do not have special needs which require accommodation of the kind provided by the house will be provided with suitable alternative housing as defined in part 2 of Schedule 2 of the Housing (Scotland) Act 2001. They would have the right to remain living in the property until we are in a position to offer suitable accommodation.

It is the responsibility of the person(s) applying for succession to provide all the necessary evidence if requested to support their application.

## **5. Succession to a Tenancy**

Requests for succession of the property should be submitted on the appropriate application form.

If succession is approved, we will notify the successor and confirm that all of the terms, conditions and responsibilities of the original tenancy have been transferred to the successor.

The date of succession will be the date of death of the preceding tenant. Any arrears outstanding at the time of death will be charged against the tenant's estate. Where there is no estate, the successor cannot be held responsible for liabilities under the tenancy prior to the date of succession. Arrears will be treated as a former tenant debt.

## **6. Declining Succession to a Tenancy**

Should a qualifying person not wish to succeed to the tenancy they must inform us in writing within 28 days of the tenant's death. Said person must vacate the property within 3 months of the date of such notice. We will then use our best endeavors to ascertain if there are any other persons who may qualify to succeed to the tenancy and notify them in writing. If no persons qualify to succeed to the tenancy, or all qualifying persons decline succession to the tenancy, we will regard the tenancy as terminated as at the time of death and transfer the property to our void property procedure. Where no one qualifies to succeed the tenancy the property becomes a vacant property for re let.



## **7. Appeals Procedure**

Applications for succession will only be refused where the applicant cannot show they are a qualifying person.

Any appeal on a decision to refuse succession should be made to the Area Manager in the first instance, who will investigate the situation and respond in writing within 14 days of receiving the complaint.

## **8. Policy 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 required.

## **9. Anti Fraud, Bribery & Corruption**

Kingdom is responsible for significant amounts of finance and other resources. There is a high overall value of organisational assets, there are large amounts of money received and paid out and there is a high volume of supporting contractual and financial transactions. Therefore there is always a risk that dishonest people will try to defraud Kingdom.

Kingdom has an Anti Fraud, Bribery and Corruption Policy and the requirements of the policy should be fully recognised when implementing this policy (add title of particular policy) and any related procedures.



## KINGDOM HOUSING ASSOCIATION LIMITED

### TENANCY SUCCESSION POLICY

Policy drawn up with reference to:

Housing Scotland (2001) Act  
Civil Partnership Act 2004

Reference made to the following sources and other guidance:  
Performance Standards GS1.1, GS1.2, GS1.3, GS2.1, GS3.2, GS3.3 & AS1.3

Prepared by: Susan Lowden

Current Policy dated: 2007

Draft 1 Circulated to Directors for review

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Sub Committee Review of Policy : 28 February 2012

Presented for approval to Committee of Management on 19 March 2012

Policy Approved Yes

Next review date: No later than March 2017

