



Lodgers and Subtenants Policy

1.0 Purpose and scope

This policy sets out our approach to managing requests from residents to have a lodger or subtenant live in their property. We aim to:

- Prevent illegal assignment and the creation of unintended tenancies and rights of occupation by managing these requests effectively
- Prevent the breach of lease terms by NHG or the lease terms of its leaseholders which might affect its security, hinder enforcement and adversely affect other residents
- Ensure requests are dealt with fairly and promptly.

This policy applies to General Needs and Care & Support tenants, as well as shared owners and leaseholders. Temporary Housing, Key Workers and Student Lets residents are not allowed to sublet their home or to take in a lodger.

If a tenant unlawfully sublets part or the whole of their property while failing to use the property as their main or principal home, we follow our Tenancy Fraud and Unauthorised Occupants Policy and other relevant policy or procedures for dealing with tenancy fraud.

2.0 Definitions

House sitter- a person who looks after a resident's property while they are away from it.

Lodger- a person who shares all the facilities of a dwelling and does not have exclusive possession of any part of the property. Their legal status is that of a licensee.

Subtenant- a person who has exclusive rights to part of the property. Their legal status is that of a tenant.

Refugee resettlement scheme- scheme by which a person hosts a refugee for a temporary period.

3.0 Entitlement to take in a lodger

Whether a tenant can take in a lodger or not, or requires our permission to do so, will depend on the type of tenancy agreement they hold:

- Secure tenants have the right to take in a lodger and do not need our permission for this, but should inform us of the name of the lodger
- Assured non-shorthold tenants have the right to take in a lodger but should check their tenancy agreement to see whether they require our prior written consent, which we will not unreasonably withhold
- Assured-shorthold tenants should check their tenancy agreement to see whether they have the right to take in a lodger with our prior written consent
- Residents that live in short-term accommodation (normally up to two years), where the service is part of an incremental recovery pathway, where it is to meet specific needs (for example Learning Disability or Mental Health) or on a licence agreement are not allowed to take in a lodger.
- Leaseholders can generally take in a lodger if they maintain the other covenants of their lease.

In instances where residents are able to take in a lodger or are entitled to sublet part of their property, we will consider giving permission to offer a spare bedroom to people under the Homes for Ukraine scheme or any other refugee resettlement scheme, subject to checks.

4.0 Entitlement to sublet all or part of the property

We will consider the following points, when granting subletting of the property:

- Secure and assured tenants have the right to sub-let part of their property, but must first obtain our consent, which we will not unreasonably withhold. Requests for permission to sub-let should be made in writing.
- Assured shorthold tenants (including probationary tenancies) are not permitted to sub-let any part of their property. If the tenancy states otherwise, requests for permission to sub-let should be made in writing.
- Residents that live in short-term accommodation (normally up to two years), accommodation that is part of an incremental recovery pathway, accommodation that is let to meet specific needs (for example Learning Disability or Mental Health) or have a licence agreement are not allowed sublet the property.
- Individual leases may contain clauses on sub-letting. Where there is discretion under the terms of the lease, we will not unreasonably withhold consent. We reserve the right to charge an administration fee to process the request where this is allowed under the terms of the lease. Whilst we have no obligation to do so, we may in special circumstances be prepared to consider permission to sub-let, even where the lease prohibits sub-letting.

Where consent is required, it will be withheld if:

- Taking in a lodger would cause overcrowding
- Major works are planned, which will affect parts of the property that would be occupied by the lodger
- The resident is subject to a possession order
- The proposed sub-tenant or lodger is subject to action for anti-social behaviour
- It would not be appropriate for the proposed sub-tenant or lodger to live with the head tenant given the type of housing or scheme.

Where written consent is required for taking in a lodger or subletting part of the property, we request that the resident provides a written statement of the names,

genders, ages and family composition of the proposed lodgers and/or subtenants, together with full information about the amount of rent they are to be charged and the part of the premises they are to occupy.

We also request a copy of the lodger or tenancy agreement to help us detect cases of tenancy fraud

If consent is withheld, we put this in writing explaining our reason(s) for refusal. We aim to respond to requests within 10 working days.

4.1 Shared owners

We consider granting consent for a shared owner to sublet all (but not part) of their property, where they are unable to occupy the property for any of the following reasons:

- Where it is necessary to temporarily relocate for a caring responsibility
- Where it is necessary to temporarily relocate in order to seek employment elsewhere
- Where a request is made by a serving member of the Armed Forces whose tour of duty requires them to serve away from the area in which they live (a distance of at least 50 miles or 90 minutes travelling time) for a fixed period.

In exceptional circumstances e.g., where there is the need of building safety work, a lack of an EWS1 certification during the staircase process (buy a greater share of their property), or during the re-mortgage or sell of the property, or where leaseholder fell into negative equity, we will consider granting permission to sublet for an extended period of up to 2 years and extend further if necessary. We may also grant permission to sublet subject to the following conditions:

- The property will initially be let for a fixed period of up to 12 months
- At the end of the licence period the leaseholder must return to reside in the property in compliance with the terms of the lease unless otherwise agreed
- Any alternative address for the shared owner will need to be provided to us
- Any other conditions as specified in the licence.

We will require the shared owner to provide evidence to support their stated reason for subletting and we will determine the validity of the evidence provided.

4.2 Leaseholders

Depending on the lease specifications, leaseholders might need to request consent to sublet all or part of their property.

Where the lease allows subletting or is silent, consent is not required.

Where the lease requires NHG to give consent, we may do so unless it is reasonable not to do so. In granting consent for a leaseholder to sublet all or part of their property, we advise leaseholders that:

- The tenant(s) must have a formal tenancy agreement which reflects the covenants of their lease. If the tenant breaks the terms of the lease, we will take action against the leaseholder
- The leaseholder will remain our main point of contact, not the sub-tenant
- Any alternative address for the leaseholder will need to be provided to us
- The subtenant must respect the terms of the lease.

5.0 Holiday lets

Where a resident seeks to let either part or all of their property as a holiday let (e.g., via Airbnb, companies that offer the same service or as a holiday exchange), we consider this as running a business from home, for which all residents must first seek written permission. We refuse residents permission to run this type of business from their home.

In instances where a resident let their property through Airbnb or similar hosting arrangement and it is deemed a commercial exercise, we consider this as a breach of any residential lease regardless as to whether the lease is silent or not. This would also be against the original buy-to-let mortgage conditions as well as the resident's landlord insurance.

5.1 Home insurance

We recognise that in some instances taking a lodger may be against the insurance policy with the insurance company, which will invalidate the insurance, as having a lodger may be seen as an extra risk.

Both residents and lodgers are responsible for obtaining appropriate types of insurance and to ensure they understand the cover provided by their insurer and any general exclusions and conditions that may apply.

6.0 House sitter

Residents who have permission to be absent from their property for a prolonged period, in line with our Absent Tenants and Abandonment Policy, can have a house sitter stay in their property while they are away. We may ask for the name, age, and gender of the house sitter to enable staff to identify them during visits to the property.

7.0 Where consent has not been sought

7.1 Tenants

Where we discover that a resident has taken in a lodger or subtenant without first seeking permission as stipulated in their tenancy agreement, we consider granting consent retrospectively. If permission is refused but the lodger or subtenant continues to occupy the property, we consider taking action for a breach of tenancy agreement and seek possession of the property.

7.2 Shared owners

Where we discover that a shared ownership (leaseholder) sublets their property without permission or following the end of a license period, we will deem them to be in breach of their lease and we will take enforcement measures or legal action as appropriate.

We will consider granting consent retrospectively in instances where there was a breach and that will depend on the circumstances and whether the criteria to sublet of the property has been met.

In instances where we disagree with a shared owner on reasons for subletting, and a shared owner agrees to rectify a breach (by removing the subtenant from their home), this may prevent enforcement action.

7.3 Leaseholders

Where we discover that a property is sublet without our consent and against the terms of the lease, we will reserve the right to take legal action at our discretion.

Where a breach has occurred, but subletting is permitted and consent has not been obtained, we will consider granting consent retrospectively.

8.0 Our approach

In writing this policy we have carried out assessments to ensure that we are considering equality, diversity and inclusion. If you'd like a copy of the assessment, please email your request to policy@nhg.org.uk.

9.0 Reference

- In line with **Section 93 and 94 of the Housing Act 1985** tenants cannot sublet part of their property without the landlord's consent
- **Section 94** of the Housing Act outlines conditions under which we must consent to subletting.
- Landlord and Tenant Act 1985

Document control

Author	Michael Drozynski, Policy Officer
Approval date	16 January 2023
Effective date	01 February 2023
Approved by	Policy Group
Policy owner	Regional Heads of Housing and Head of Leasehold Services
Accountable Director	Director of Housing Management Assistant Director of Leasehold

Version Control

Date	Amendment	Version
July 2019	New NHG Policy created	1.0
January 2023	Desktop review of the Policy where we updated the definition of subletting, clarified on the refugee resettlement scheme, holiday lets and reviewed our position on entitlement to sublet all or part of a property in Shared ownership properties.	1.1