

HOUSING

# Lodgers and Subletting

HOUSING

a guide for Council tenants



### What if I go away for a while - can someone else live in my home while I am away?

If the arrangement is informal, you can let a friend or a relative live in your home as a 'housesitter' while you are away, as long as you intend to return. However, you must remember that you must still pay the rent, and if you don't pay and don't heed our written warnings you are likely to receive a Notice of Seeking Possession. The fact that you are not at home to receive the letters makes no difference.

So it is important that your housesitter is a responsible adult you trust. Late-night parties, anti-social behaviour or breaches of the tenancy agreement they cause will be your responsibility. Also, if a different housesitter takes over, you must notify us.

Don't forget that if you go away, you cannot sublet your home because you are not allowed to sublet all of your property - see above.

**If you have any questions or want clarification on any of these issues, please seek independent legal advice or call any of the numbers below:**

**Housing Advice Officer**  
01483 5233452

**Citizens Advice Bureau**  
Godalming 01483 428212  
Haslemere 01428 643413  
Cranleigh 01483 273378  
Farnham 01252 726218

**Housing Management Section**  
01483 523169  
housing.management@waverley.gov.uk

A large print version of this document is available  
**Call 01483 523 452 / 188**  
for a copy

### Comments

If you have any comments on how this leaflet could be improved, please let us know.



### Waverley Borough Council

The Bury's, Godalming  
Surrey GU7 1HR  
**tel** (01483) 523 452/188  
**fax** (01483) 523 163

[www.waverley.gov.uk/housingneeds](http://www.waverley.gov.uk/housingneeds)

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Waverley Borough Council  
[www.waverley.gov.uk](http://www.waverley.gov.uk)



**I am a Council tenant and I have a spare room. Can I take in a lodger?**

**Yes.** All secure tenants of the Council have the right to have a lodger live in their home. In fact, we are pleased when tenants with extra rooms take in lodgers as this helps to make better use of our housing, helps meet local housing need, and can help you pay the household bills. However, you cannot take in a lodger if this would cause your home to become overcrowded.



You do not need our permission to take in a lodger, but you must tell your Housing Management Officer. In addition, you must inform the Housing Benefit section if you are receiving Housing Benefit, as it may affect the amount of benefit you are entitled to - speak to your Housing Benefit Officer for advice.

It is important to know the legal requirements on lodgers. Then you will know where you stand and what you need to do if, for instance, you want your lodger to leave and he or she will not go.

A lodger does not have the right to exclude you from any part of the property. They are living in your home with your consent; if you give them a room key, you also should have a key as you have the right of access - to clean the room or change bedding, for instance.

The arrangement between you and your lodger is private and a lodger has no legal status with the Council. We therefore have no powers to evict your lodger for you.

If you have difficulties and want your lodger to leave but they refuse, you should seek independent advice, e.g. from a Citizens Advice Bureau.

However, if you end your tenancy with us, this is binding on your lodger - they cannot stay on. This is also true if we served notice on you to end the tenancy - your lodger would have to go too.

**Can I sublet part of my home?**

Under Section 94 of the Housing Act 1985, you can sublet part of your home only if you have our written consent. However, we would need valid reasons to refuse this, for example if the subletting would lead to 'overcrowding' in legal terms. If we do refuse your application, we must give you the reasons in writing.



We can give consent retrospectively - in other words after you have sublet - but you would still need our written consent to carry on subletting.

If you sublet part of the property without our written permission, you are breaching the tenancy agreement and this is a reason for us to seek possession of your home.

A subtenant is different from a lodger because the subtenant has rights over part of the property and has a key, and you are not entitled to go into their area without their permission.

The subtenancy ends when your secure tenancy ends; so if you terminate your tenancy, the subtenancy must also end. Likewise, if we seek possession of your home it will be for the whole property, and will apply to your subtenant too. We will accept only a properly completed, formal notice of termination from you - not just a surrender of the keys or a verbal agreement.

**Can I sublet all my home?**

**No.** Under Section 93 of the Housing Act 1985, if you sublet all your home, your tenancy becomes insecure and it cannot become secure again. We can end your tenancy by serving on you a Notice to Quit.

