

Household Members, Lodgers and Sub-Tenants Policy



Directorate: Communities
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Document Information

Scope:

The purpose of this policy is to ensure that Salix Homes processes all changes to household members, lodger and subtenant applications, in accordance with current legislation and the tenancy agreement.

The objectives of this policy are:

- To enable customers to understand their rights and responsibilities regarding changes to their household.
- To enable customers to understand their rights and responsibilities regarding lodgers and subtenants.
- To monitor and manage the household members lodgers and subtenants of Salix Homes where necessary to do so
- To enable customers to grant permission to a third party to discuss matters regarding their tenancy

Service Standards / Performance Measures / Corporate Strategy:

Service Standards

- Salix Homes will acknowledge household, lodger, and subtenant requests within 2 working days of all information being received
- Salix Homes will respond to household, lodger, and subtenant requests within 10 working days of all information being received

Performance measure

- 100% of applications acknowledged within 2 working days
- 100% of applications processed within 10 working days.

Risks:

Risk: Changes to legislation mean that Salix Homes' approach is no longer applicable.

Mitigation: Tenancy Specialist Team responsible for researching updates on government policy.

Owner: allocations and voids manager

Risk: Policy fails to effectively tackle illegal occupation and subletting

Mitigation: Ensure tenancy fraud policy is adhered to, supplemented with periodic training for appropriate staff

Owner: Tenancy specialist

Related Policy/Procedure & Documents:

- Household member, lodger, and subtenant procedure
- Salix Homes' left in occupation policy & procedure
- Tenancy fraud policy & procedure
- Salix Homes fob policy & procedure

Related Legislation / Relevant Regulation:

- Localism Act 2011
- Housing Act 1988
- Housing Act 1996
- Property Act 1925
- Housing Act 1985
- Pending secondary legislation from the Fire Safety Act 2021

Retention & Legal Basis for Storage:

The legal basis for processing for all Salix Homes activities are captured within the Information Asset Register.

The retention periods for all Salix Homes activities are captured within the Data Retention Schedule.

Stakeholders:

As there were minimal changes to this policy during the review, stakeholder consultation was not required.

Data Protection Impact Assessment (DPIA)

The DPIA has been completed in November 2021

Equality Impact Assessment (EIA)

An EIA was completed in November 2021

Introduction

1. This policy identifies Salix Homes' approach and process in relation to all applications for households, lodgers, subtenants and requests for authority for another person to act on a tenant's behalf in line with the tenancy agreement and relevant legislation.
2. Salix Homes is committed to processing household information where it is appropriate and/or necessary to do so. Salix Homes is supportive of enabling tenants to give authority to another person to discuss matters regarding their tenancy.
3. Salix Homes understands that tenants may wish to take in a lodger or subtenant to rent part of the premises which may help to alleviate financial difficulties, prevent financial exclusion and social isolation.
4. Tenants who choose to take in a lodger can help to make better use of the available stock by providing accommodation for those who otherwise would be homeless, this reduces under-occupation in our homes and can assist tenants to pay their rent.
5. The policy applies primarily to Salix Homes social rent properties.

Households

6. All tenants regardless of the type of tenancy agreement must request approval from Salix Homes to take in a lodger or a subtenant.
7. Salix Homes will only refuse permission to changes to households if:
 - Any person/s other than dependent children do not meet the age restriction at the property in line with the local lettings policy.
 - Overcrowding would occur, as detailed in the Housing Act 1985 'Statutory Overcrowding', this does not include any dependent children.
 - The proposed household member, lodger or subtenant has previously caused anti-social behaviour in a Salix Homes property or neighbourhood in the last three years.
 - The tenancy is subject to a court order.
 - It is an assured shorthold or starter tenancy.
 - The tenant plans to sublet the whole of their home.
8. Tenants will be informed in writing by Salix Homes if their request has been approved or refused.
9. Salix Homes will hold tenants responsible for the actions or behaviour (with or without their direct knowledge) of any household members that breach the responsibilities outlined in the tenancy agreement.

10. The tenant is responsible for any appropriate checks, including right to rent checks, to be completed for their lodger/subtenant

Lodgers

11. All tenants, regardless of the type of tenancy agreement must request approval in writing from Salix Homes prior to taking in a lodger.
12. Salix Homes will refuse to approve any lodger requests if:
 - Overcrowding would occur as detailed in the Housing Act 1985 'Statutory Overcrowding'.
 - Any lodger/s does not meet the age restriction at the property in line with the local lettings policy, or any other local lettings policy restriction
 - The proposed household member, lodger or subtenant has previously caused anti-social behaviour in a Salix Homes property or neighbourhood in the last three years.
 - The tenancy is subject to a court order.
 - It is an assured shorthold or starter tenancy.
13. Salix Homes will inform tenants in writing of their lodger request outcome.
14. Salix Homes will hold tenants responsible for the actions or behaviour (with or without their direct knowledge) of any lodgers that breach the responsibilities outlined in the tenancy agreement.

Subletting

15. Tenants can apply to sublet part of their home by requesting permission from Salix Homes.
16. Salix Homes will refuse to approve any requests to sub-let part of the property if:
 - Overcrowding would occur, as detailed in the Housing Act 1985 'Statutory Overcrowding'.
 - Any subtenant/s does not meet the age restriction at the property in line with the local lettings policy, or any other local lettings policy restriction
 - The proposed household member, lodger or subtenant has previously caused anti-social behaviour in a Salix Homes property or neighbourhood in the last three years.
 - The tenancy is subject to a court order.

- It is an assured shorthold or starter tenancy.
 - The tenant plans to sublet the whole of their home
17. Any tenant that sublets or parts with the whole of the property and has no intention of returning to the property will lose security of their tenancy. Once security of tenure has been lost in these circumstances it cannot be regained, even if the tenant moves back into the property.
18. Salix Homes will inform the tenant in writing if permission is granted or refused.
19. Salix Homes will hold tenants responsible for the actions or behaviour (with or without their direct knowledge) of any subtenants that breach the responsibilities outlined in the tenancy agreement.

Household members

20. Salix Homes will only process the personal data of household members if the person lives in a high-rise property.
21. Salix Homes will refuse to approve any household members requests in high-rise properties if:
- Overcrowding would occur, as detailed in the Housing Act 1985 'Statutory Overcrowding'.
 - Any subtenant/s does not meet the age restriction at the property in line with the local lettings policy, or any other local lettings policy restriction
 - The proposed household member has previously caused anti-social behaviour in a Salix Homes property or neighbourhood in the last three years.
22. Where the addition of the household member results in overcrowding, the Tenancy Specialist Team will notify the relevant estate management officer and building safety officer.

Persons moving out

23. All tenant/s should inform Salix Homes of any person/s moving out of their property where the personal data has been processed.

Housing advice

19. Salix Homes will signpost any tenant/s and person/s for housing advice where an application has not been approved, if appropriate.

Failure to update Salix Homes of changes to your household

20. In conjunction with the prevention of tenancy fraud policy, any tenants who fail to update Salix Homes with any changes to their household or of any lodgers or subtenants residing at the property could result in:
- Housing benefit or council tax claims being suspended
 - Salford Home Search applications being suspended
 - Potential fraud investigation

Preventing illegal occupation

21. Salix Homes will aim to take precautions to minimise the risk of unauthorised subletting, trespassing and overcrowding that can be caused by taking in lodgers or subtenants.
22. Salix Homes may periodically carry out tenancy checks to ensure that the legal tenant is in occupation. We will work in partnership with other agencies to ensure the correct tenant is occupying the premises.

Appealing a decision

23. Tenants have the right to appeal decisions refusing approval or permission around household members, lodgers and subtenants. These appeals will be reviewed by the allocations and voids manager.

Lodgers and subtenants left in occupation

24. The lodger or subtenant does not become part of the tenancy. They do not have rights to the property or tenancy.
25. The lodger or subtenant will not be considered as a member of your household should you apply for a tenancy change including mutual exchange, assignment, succession.
26. The lodger or subtenant will not be considered if you are moved permanently or temporarily for repairs, demolition etc. They will not be considered if Salix Homes applies for possession proceedings

Form of Authority

27. Salix Homes will only discuss information regarding a tenancy with the tenant unless a person has been granted authority by the tenant to act on their behalf.

28. Any person granted authority will be asked security questions by Salix Homes staff before any information is shared.

Responsibility

29. The tenant is responsible for the behaviour of lodger, subtenant and household member.
30. The tenant is responsible for carrying out the necessary checks on any lodgers or subtenants e.g. Right to Rent
31. The tenant is responsible for notifying Salix Homes of any household member, lodger or subtenant who moves into or out of the property and if they are unable to self-evacuate the premises in an emergency if they live in a high-rise.
32. The tenant is responsible for notifying the relevant government and local government departments that a lodger or subtenant has moved in e.g. DWP, HMRC, HB, Council Tax
33. The tenant is responsible for notifying their home contents insurance company as it may affect their policy.
34. The tenant is responsible for ensuring that the lodger or subtenant has vacated the property if they are giving notice to terminate their tenancy. They must give the appropriate notice to their lodger or subtenant and return the property with vacant possession.
35. The tenant is responsible for giving the appropriate notice to the lodger or subtenant if they want them to leave the property
36. Salix Homes will not take any responsibility or consideration for lodgers and subtenants when:
 - decanting tenants, permanently or temporarily for major works or demolition
 - for disabled adaptations
 - in tenancy change applications
 - if the tenant passes away. The lodger or subtenant will be signposted to rehousing services
 - if the tenant gives notice to terminate the tenancy
 - if Salix Homes is applying for possession proceedings
37. Salix Homes will not get involved in any dispute between tenants and their lodgers or subtenants and will not provide advice or assistance.

Appendix 1

Type	Household members	Lodgers with permission	Subtenants with permission
Salix Homes starter tenancy	✓	X	X
Salix Homes assured tenancy	✓	✓	✓
Salix Homes protected assured	✓	✓	✓
Derive starter tenancy	✓	X	X
Derive fixed term assured tenancy	✓	✓	X
Alexander Gardens fixed term assured tenancy	✓	✓	X
RSAP / NSAP	X	X	X
PSL assured shorthold tenancies	✓	X	X
Artifex Rent to Buy	✓	✓	X