

Subletting

What is subletting?

Subletting is the term used for leasing or renting out part of your home to another person where there is already a lease or tenancy agreement in place between you and your landlord – Orbit. Some leases use the word ‘underlet’ rather than sublet.

To avoid confusion, we also use the same term for homeowners who bought their home with the aid of a HomeBuy equity loan, even though technically you would not be subletting, because you have a loan agreement with us rather than a lease.

Why does Orbit have to know if I want to sublet my property?

Orbit provides affordable home ownership options, which include shared ownership and HomeBuy equity loans. These are usually provided with the assistance of public funds and the aim is to meet the needs of those who cannot afford to buy a home of their own. Orbit has to comply with funding regulations, one of which is to ensure that public funds are spent appropriately and applicants are not accessing low cost home ownership products for commercial gain.

Because of this, shared ownership leases and HomeBuy equity loans prohibit subletting without our consent. You will also need the consent of your mortgage lender and your insurers. If you are under a shared ownership lease you do not need to notify the building insurer as we arrange this policy, but if you are letting the home out furnished you must contact your home contents insurer.

What does my lease or loan agreement say?

Because affordable homeownership is designed for owner occupation, there are

clauses to stop you letting out your home. Due to these restrictions, if Orbit gives consent to sublet, we will also have to issue you with a license confirming the basis of our consent.

If you are a shared owner: Your lease will say that you cannot sublet or part with possession (allow somebody else to occupy) part of or the whole of the property.

If you are a HomeBuy equity loan homeowner:

Your loan agreement will state the property is to be used as your only or main residence. It also says that you cannot let out the property or agree to let it out without our consent.

Does this mean I can't take in a lodger?

Taking in a lodger is not the same as subletting because the lodger does not have the security of a tenancy.

This is because:

- You do not issue a lodger with a tenancy agreement, although you can issue an agreement of the lodging terms and house rules
- The room you let is in your main residence – where you live, and you must not move out
- The lodger does not have exclusive possession of a self-contained part of your property – they have to share cooking and bathroom facilities etc. with you.

Although you still need to let Orbit, your mortgage lender and your insurers know, as long as you follow the rules above there should not be a problem. If you receive any means-tested benefits you should also advise the relevant agency.

In what circumstances will Orbit consent to me subletting my property?

We will not withhold consent for subletting when you have a valid reason for wanting to sublet. The circumstances for each request will be judged on its own merits but examples of when permission is likely to be granted include:

- Personal medical needs or
- Caring for a sick relative
- Temporary employment which is not within reasonable commuting distance
- Prison term
- Financial circumstances that prevent the sale of property or negative equity
- Training/education away from home for a limited period.

You will need to provide us with evidence to support your request, for example a letter from your employer confirming the temporary contract and location of the job.

If consent is given how long can I sublet my property for?

If consent is given it will be for an agreed fixed term, usually 6 months but up to a maximum of 12 months and we will issue you with a license for the agreed period.

This is because it is intended that at the end of the fixed term you will return to the property as your main residence; for example when your temporary works contract has come to an end.

If you are not intending to return to the property, you will either have to sell it, buy out the remaining shares (known as staircasing) or redeem your equity loan. Separate leaflets are available on all of these options. Alternatively you may re-apply for subletting your property, but further applications will only be considered under exceptional circumstances and for another fixed term. We will not agree to you subletting your property for an indefinite period.

Is there anything I need to pay?

If you use a lettings agency to find a tenant and manage the tenancy on your behalf they will charge a fee. You also need to consider that tax may be payable and if you receive any means-tested benefits you must inform the benefits agency.

Your mortgage lender may charge you an administration fee and, depending on the terms of your mortgage, they may charge you a higher interest rate. In addition to the charges made by the mortgage lenders, Orbit charge an administration fee for the extra work we have to do as a result of you wanting to let your property.

Our administration fee has two parts: a fee for the work involved in considering your application to sublet and a fee for issuing the license. The first part of the fee is payable when you make your application. If consent is given then you have to pay the balance of the fee when you provide the information necessary for the license to be issued. Please see our Administration charges leaflet for the current charges and a summary of your rights and obligations in relation to our fees.

In addition to the charges mentioned above you will still be responsible for paying your mortgage, your rent and your service charges etc. whilst the property is let out.

If you do not currently pay by direct debit then we will ask you to change to this method as a condition of our consent.

Failure of your tenants to pay the rent to you will not be accepted as a reason for you not paying your charges.

Where do I get the other leaflets and forms from?

All the leaflets or forms referred to are available to download from our website: www.orbit.org.uk or are available from your Leasehold Officer.

What do I do now?

If you want to apply to sublet your property please complete and return the attached request form and send it to us along with the supporting evidence, specimen tenancy agreement, a copy of the 'in principle' consent from your mortgage lender and the initial administration fee.

If you are planning to use a lettings agent, they will be able to provide you with the specimen tenancy agreement. If you are not using a lettings agent, we are able to provide you with a tenancy agreement on request.

If your application is approved we will write to you confirming this and provide you with a licence (in duplicate). You will need to sign both copies of the licence and send both to us along with confirmation of the tenancy start date, your contact and correspondence details, and details of any agent acting on your behalf.

We will also need confirmation from your mortgage lender that they are aware the subletting is proceeding.

On receipt of this we will sign and seal the licence and send a copy back to you. If your application is not approved we will write to you telling you the reason why and return the second part of the administration fee if you have already paid this.

Please note: It is your responsibility to ensure your tenant does not breach the rules and regulations within your lease or loan agreement, relating to the behaviour of the occupiers of the property.

Who do I contact at Orbit if I have any more queries regarding subletting?

If you have any further queries, please contact your Leasehold Officer on 0800 678 1221.

Alternatively, you may e-mail info@orbit.org.uk or visit our website www.orbit.org.uk for further information.

Checklist of what you will need in order that we may consider your request to sublet:

Request to sublet:

- Completed request form
- Evidence to support the reason given
- Evidence your mortgage lender has agreed 'in principle' to you subletting
- Initial Administration fee (refer to our Administration charges leaflet)
- Specimen of the tenancy agreement you will use

After approved in principle: (in addition to above)

- Details of your correspondence address and contact details (if you are going to be out of the country we will also need details of someone we may contact in the UK)
- Details of your lettings agency with their contact details
- Confirmation of when the tenancy is to start and a copy of the tenancy agreement
- Confirmation from your mortgage lender that they know the subletting is proceeding
- Administration fee part two (refer to our Administration charges leaflet)

Request for permission to sublet a shared ownership or HomeBuy loan property

Please complete this form, attach relevant documents, supporting evidence and fees and post to:

Orbit Living, PO Box 6406, Coventry, CV3 9NB

Your name(s):

Your address:

Post code: _____

Reason for *6 or *12 months sublet (Please circle 6 or 12 month request)

Please continue on separate sheet if required.

Has your mortgage lender granted permission for you to sublet? ***Yes / No**

(Please provide a copy of the 'in principle' decision in writing from your lender – we will not be able to consider your request without this)

Is a copy of the tenancy agreement attached? ***Yes / No**

If no, do you agree to use the agreement we are able to provide? ***Yes / No**

(Please provide a copy of the tenancy agreement you intend to use if consent is given. Your letting agent will be able to provide you with this. We will not be able to consider the request without this).

If consent to sublet is given, I understand that I will remain responsible for paying the mortgage, rent and any service charges for the property. ***Yes / No**

The Initial administration fee of £.....is enclosed and I understand I will be required to pay an additional fee for the license if approved? ***Yes / No**

(We will not be able to consider the request further without this)

Please sign below (If the property is in joint names, both parties must sign):

Signed _____
Dated: _____

Signed _____
Dated: _____

Office use only: Consent Y or N:

LSM Signature:

Dated:

Additional comments:

How to get in touch

For further information please email us at:
info@orbit.org.uk

Or call:
0800 678 1221

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