

# Lodgers and Subletting Policy

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Responsible Officer	Assistant Director of Housing
This policy is applicable to	Karbon Homes
Approved by	KMT
Date approved	30 June 2022
Frequency of review	Every 5 years
Date of next review	December 2025
Implementation date	1 July 2022
Key related documents (policy, procedure, customer literature)	Tenancy Agreements Tenancy Policy Tenancy Fraud Policy Tenants Handbook
Sources of best practice or guidance used in developing this policy	Karbon will ensure that requests to take in lodgers or to sublet part of the property are considered in accordance with relevant policy and legislation, including the following: <ul style="list-style-type: none"> <li>• Housing Act 1985.</li> <li>• Housing Acts 1988, 1996</li> </ul>

Version control			
Version number	2	Author of Policy	Kath Glen
Equality Impact Analysis	Initial	Equality Analysis Date	10 June 2022
Data Protection Impact Assessment	Initial	DPIA Date	

Document change history		
Version	Date	Changed sections

Consultation	
Consultation Group (if applicable)	Date of Consultation (if applicable)
Staff	29 April 2022
Union(s)	Not applicable
Customers	29 April 2022
Human Resources / Organisation Development	Not applicable
Health and Safety Working Group	Not applicable
Data Protection	Not applicable
Other stakeholder (please state)	Not applicable

## **Policy statement**

This policy discusses our approach to customers having lodgers and subletting their homes.

## **Risk policy is designed to control**

To prevent homes being unlawfully sublet, illegal assignment and the creation of unintended tenancies and rights of occupation and to ensure we optimise the use of our housing stock.

## **Performance measures**

We will keep a record of all cases where there is a request for subletting and/or taking in a lodger.

## **Definitions**

Some social tenants have a legal right to take in a lodger or a sub-tenant:

- A lodger is someone who rents a room (or some rooms) in the property but who does not have exclusive possession of any part of it – i.e. they do not have a room key and the tenant retains access to the lodger's room.
- A sub-tenant is someone with exclusive rights to part of the property – i.e. they have a key to their room (or rooms) and the tenant has no right to enter without obtaining permission first.

## **Abbreviations (Acronyms)**

Her Majesty's Revenue and Customs (HMRC), Department for Work & Pensions (DWP).

### **1.0 Purpose of policy**

- 1.1 Karbon understands that there may be occasions when a tenant wishes to take in a lodger or sub-tenant due to personal, financial or health reasons of either person. The additional income from a lodger or sub-tenant may mean a tenant can remain in a home and community they may otherwise have to leave as a result of the 'bedroom tax' or other financial pressures. In addition, housing a lodger or sub-tenant can help make better use of housing stock as well as meet housing need.
- 1.2 We also recognise that having a sub-tenant or a lodger may not always be in the best interests of a tenant and Karbon will provide information on an individual basis on how lodgers and sub-tenants may impact on tenancy agreements and affect welfare entitlements, if appropriate. In addition, we will encourage tenants to explore a range of options before making an informed decision about the type of arrangement that best suits their lifestyle and needs.

## **2.0 Objectives**

2.1 This policy is designed to:

- Ensure all enquiries and requests by tenants to take in a lodger or sublet part of their property are dealt with consistently and fairly.
- Prevent overcrowding.
- Ensure tenants remain responsible for all obligations under their tenancy agreement.
- Prevent properties being unlawfully sublet, illegal assignment and the creation of unintended tenancies and rights of occupation.
- Minimise the risk of unauthorised mutual exchanges.
- Ensure Karbon properties are not used as commercial ventures where rooms are rented out by tenants as a business.
- Ensure Karbon has a proactive approach to identifying unauthorised occupation.
- Ensure swift and effective action is taken to regain possession of properties occupied by unauthorised occupants.
- Set out the circumstances where permission to sublet will be refused.
- Alert staff and tenants/residents to the possibility of the exploitation of vulnerable tenants by lodgers or the issues for tenants of taking in vulnerable lodgers.
- Maintain up to date records of household composition.

## **3.0 Legal requirements**

3.1 Karbon will allow its tenants, subject to the conditions contained within their tenancy agreements, to take in lodgers or to sub-let part of their homes.

3.2 There are some Karbon Homes properties which have been developed with the aid of grant for example Social Housing Grant and are subject to overriding obligations on subletting and sharing possession. Where this is likely to be an issue we will check the relevant grant agreement

3.3 There will be occasions where a tenant may wish to rent out a room (or some rooms) in their home, while continuing to live in the remainder of the property themselves. This is usually entirely legal and appropriate. This might include, for example, occasions where a tenant is affected by the bedroom tax.

3.4 The precise legality of this depends on which type of tenancy is in use and whether the person moving in is a lodger or a sub-tenant. Each request will be considered on an individual basis and in conjunction with the relevant tenancy or occupancy agreement

3.5 Subletting the property in its entirety is unlawful. Social tenants are bound by a legal obligation to occupy their property as their "only or principal home" (although temporary absences are permitted). Where a tenant does not do this they will have breached the terms of their tenancy and may also have committed a criminal offence.

- 3.6 Subletting in any leasehold properties is generally not permitted and will be governed by the terms of individual leases.

## **4.0 Permission**

- 4.1 Karbon will consider all requests from tenants to take in a lodger or to sub-let part of their property, and will not unreasonably withhold its consent to any such requests.
- 4.2 All requests to take in a lodger or to sub-let part of a property must be made in writing. Tenants must provide us with the following information before taking in a lodger/sub tenant:
- Name, age & gender of the proposed lodger(s)/sub-tenant(s).
  - The intended length of time they will be staying.
  - How much they will be charging (weekly, fortnightly or monthly).
  - Which part of the property they will be occupying.
  - Sub tenants only - type of agreement that will be in place between the tenant and sub-tenant, i.e. a contractual tenancy or licence.
  - Confirmation that DWP or Housing Benefit has been advised (where appropriate).
- 4.3 Karbon will not give permission for a tenant to take in a lodger or to sub-let part of their property in the following circumstances:
- Where it would lead to overcrowding.
  - Where the proposed lodger or sub-tenant has previously held an unsatisfactory tenancy with Karbon (or one of the legacy organisations).
  - Where it is proposed to sub-let the whole of the property.
  - Where the tenant occupies specialist accommodation and the lodger or sub-tenant does not meet the eligibility criteria.
  - The property in question has had substantial adaptation or has design features which are not required by the sub-tenant.
  - Where there is any damage or disrepair to the property caused by the tenant, a member of the household or a visitor to the property.
  - Where the term or the conditions of the sub-letting/lodgers arrangement are deemed to be unreasonable.
  - The prospective sub-tenant/lodger has deliberately omitted, distorted or given false information on their application.
  - The prospective sub-tenant/lodger has pursued a course of anti-social behaviour or has been convicted of using a previous tenancy for illegal or immoral purposes.
  - The proposed sub-tenant is subject to action for antisocial behaviour.
  - The tenant is subject to a possession order.
  - There is substantiated evidence that a vulnerable adult or a child might be at risk if the sub tenancy was granted.
  - Planned repair or improvement works will affect the accommodation likely to be used by the proposed sub-tenant.
- 4.4 Karbon will notify the tenant in writing of its decision within 10 working days of receiving the application. Where permission to take in a lodger or to sub-let part of

the property is refused, Karbon will inform the tenant in writing of the reason for refusal.

- 4.5 If a tenant has been refused permission to take in a lodger or sub-tenant they can appeal. If they wish to appeal the decision, they should do so in writing by letter or email giving the reasons they feel they disagree with the decision. The appeal will be considered by the relevant manager or Head of Service
- 4.6 The tenant will be advised of the implications of taking in a lodger or sub-tenant if they are in receipt of housing benefit or other benefits. If a tenant is in receipt of benefits it is their responsibility to declare the rent payments received from any lodgers/sub-tenants as income to any relevant organisation, such as Her Majesty's Revenue and Customs (HMRC), Department for Work & Pensions (DWP) or local authority.
- 4.7 Where a tenant fails to ask permission before taking in a lodger or subletting part of the property, Karbon reserves the right to request that the lodger vacate the property. Should the tenant refuse to co-operate with this request, then legal action may be taken to enforce the breach of tenancy.
- 4.8 The lodger or sub-tenant does not have any right of succession to the tenancy.
- 4.9 If a tenant sub-lets the whole of a property, this is in breach of the tenancy agreement and the tenant will lose their security of tenure. Action may then be taken to end the tenancy.
- 4.10 The tenant shall be responsible for the behaviour of the lodger or subtenant while they are living at the property.
- 4.11 The tenant is always responsible for the obligations as defined in the Tenancy Agreement, such as rent due or rechargeable repairs and any breaches will be enforced against the tenant, whether they are as a result of actions by the lodger/sub-tenant.
- 4.12 If the tenant applies for a transfer, the lodger or sub-tenant will not be counted as part of the household. The same criterion applies if the household needs to be decanted.
- 4.13 Karbon strongly advises tenants to seek legal advice before taking in a lodger or sub-tenant.

## **5.0 Customer Vulnerabilities**

- 5.1 This policy is applied in line with Our Approach To Vulnerability Policy. Everyone matters. We want people to be treated fairly, have equality of opportunities, freedom, respect, and access to our services. We will offer support, reasonable adjustments, and adaptations to remove barriers. We will discuss with our customers what is reasonable and appropriate. In delivering this service we may need to escalate a particular case – if we do then customer vulnerabilities will be considered as part of the decision-making process.

- 5.2 We will support people with vulnerabilities to deliver this service. We will work alongside external agencies such as social services, the police and fire services and other appropriate agencies to help and support people with vulnerabilities in the delivery of our services but also to ensure we meet our statutory and regulatory requirements as a social landlord. Details are provided in the appropriate areas in this policy. All our customer policies are available on the website.

## **6.0 Monitoring and Review**

- 6.1 This policy will be reviewed every 3 years unless there are any legislative or regulatory change or changes in best practice

## **7.0 Equality and Diversity**

- 7.1 This policy is applied in line with Karbon's Equality and Diversity Policy and the associated legislation including the Public Sector Equality Duty and Equality Act 2010. At Karbon we aim to eliminate discrimination, promote equality of opportunity, foster good relations and define the nine protected characteristics of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.
- 7.2 However, we like to go even further. Beyond these protected characteristics we also take into consideration additional factors such as socio-economic status and language barriers which may also play a part. Our vision is for everyone to be treated fairly, have equality of opportunities, freedom, respect and access to our services.
- 7.3 To help us achieve this, we will work to improve accessibility for all, offering reasonable adjustments, adaptations and discussing ways that we can work to remove any barriers. A reasonable adjustment involves making a change to the way that we usually do things.
- 7.4 All of our customer policies and key information are made available on the Karbon Homes website. Reasonable adjustments that can help for example to make our information and services more accessible are sign language and language interpreters. We will work to improve accessibility for everybody that we deal with offering reasonable adjustments, adaptations and discussing ways that we can work to remove barriers that you may experience. A reasonable adjustment involves making a change to the way that we usually do things.
- 7.5 We work together to look at options and agree what adjustments would be reasonable in your individual circumstances. If you would like to find out more please get in touch with the team.

## **8.0 Data Protection and Privacy**

- 8.1 We have a clear policy on data protection and sharing data with other partners/third parties under the requirements of the UK General Data Protection Regulation, the Data Protection Act 2018 and other associated legislation. This is clearly set out in the Data Protection Policy for the Karbon Homes Group which, along with its associated procedures, must be followed throughout the operation of this policy.