

NHS Property Services

Signing an Occupation Agreement



Signing an Occupation Agreement with us

What is it and why is it needed?

The Department of Health and Social Care and NHS England/ NHS Improvement are supporting a regularisation of tenancy arrangements of NHS owned and leased properties, to improve property utilisation and value for money. This means that all occupants are being encouraged to formalise their occupancy agreements.

That's where we come in. NHS Property Services (NHSPS) owns and manages more than 3,000 NHS properties, but most occupants lack the formal documentation needed to clarify rights and responsibilities between the owner of the building and the occupiers.



When does this need to be done by and how?

Occupiers are expected to enter open discussions with NHS Property Services. The process will commence in 2020 and will be carried out in 3 phases: NHS Family, Non Family and GPs.

This work has been ongoing since 2013, and we're now working hard to resolve outstanding matters and reach agreements with our customers, which we would appreciate your support on.

To start the process, please contact your Property Manager, or our Customer Service team on:

customer.service@property.nhs.uk

Or call 0800 085 3015





What are the options?

We are aware that a full lease may not be suitable for every occupier, for example where there are short service contracts in place. And so we have four options available:



Full lease

A formal, documented agreement covering rent and service charges. This remains the preferred option for NHSPS, NHSE/NHSI and occupiers and gives you the most clarity and security.



Memorandum of Terms of Occupation (MOTO)

A MOTO is effectively a light lease, designed especially for Primary Care occupation and contains basic lease obligations for both parties including health & safety, repair and maintenance. This is the preferred document for use within the NHS Family. It is not expected that MOTO terms will be negotiated on a case-by-case basis (save to cater for the unique circumstances of a particular property) and nor is it expected that external legal advisers will be involved in negotiation of the MOTO, as the terms have already been pre-negotiated.



Rental Agreement Letters

An informal agreement giving you clarity on rent and the agreed payment terms for your occupation while we continue to work with you on agreeing facilities management and other services separately.



NHS Open Space

We now have a digital platform to find and book sessional spaces in NHS buildings. NHS Open Space is currently live in 60 sites, with expansion to our wider portfolio in the next year.

Head to openspace.nhs.uk for more information.

How will a formal occupation agreement benefit tenants?



A formal agreement on a property's occupation enables:

Quality patient care

Our ultimate goal across the NHS is to help provide the best quality patient care possible.

- It's in the best interest of patients for their GPs and other healthcare providers to occupy safe and compliant premises on a secure legal footing, with arrangements to provide financial stability and certainty.

Help us to keep your property data up to date

As well as being a legal requirement, by letting us know when you're changing how you use your space we can more accurately bill you, help you to keep compliant with health and safety, and have a better overall understanding of your current estate operation and requirements.

To learn more, please head to [our website](#)

Security of occupation

- What space the tenant can exclusively use, and how;
- What rights tenants have over shared or common areas;
- How long the right to occupy the space lasts, and how it can be terminated;
- What liabilities there are in terms of the tenant's occupation of the premises;
- What services the landlord provides to the building, and what the occupier is responsible for.

Clarity on space used can also help identify vacant spaces, which may be re-used to save money for Commissioners, or disposed of to provide income to the NHS.

For more information on our Vacant Space Handback Scheme, please head to [our website](#).



Clarity on costs

Agreeing and documenting occupancy is the first step to providing clarity on costs regarding any occupation.

- More accurate allocation of costs;
- Clearer billing with full and accurate information;
- Detail on how costs are calculated and the rules about how rent can be reviewed;
- Certainty as to what may or may not be re-charged;
- Identification of potential savings;
- Evidence to support claims for rent reimbursement under the Premises Costs Directions;
- Forecasting of future costs.

Informing future investment

- With an occupation agreement in place, we can better support our customers in delivering the best most effective patient care, through optimising occupancy, identifying and addressing poorly used space, and releasing assets that are unduly expensive, unfit, or surplus.
- Beyond our services, evidence of a formal, documented lease is needed to support any application for a premises improvement grant under the Premises Cost Directions, or grants from the Estates and Technology Transformation Fund.

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What does NHS Property Services do in this process?

Putting documentation in place isn't just a matter for lawyers. We're taking this opportunity to agree with our customers on the facts about how our buildings are occupied and used.

For documentation on the space itself, we:



Inspect and survey the building. An independent valuer will also assess the current market rent, in the case of GPs this will generally be the District Valuer. With leasehold properties it is generally passed through from the head lease.



Prepare floor plans of your own exclusive space, any shared and common areas, and any car parking.



Where a lease or MOTO is to be agreed, we will issue a document called 'Heads of Terms' which will set out the salient points of the occupation. Where a Rental Agreement Letter is to be agreed, occupancy and rent are documented in a simple letter.



Draw up and complete occupancy agreement based on the terms agreed upon.

Read the letter sent by the Department of Health and Social Care (DHSC) and NHS England & Improvement on occupancy agreements.

For documentation on the services for the space, we:



Verify all of the shared facilities management services we provide to the building.



Establish the right split of services between buildings.



Ensure that the charge for each facilities management service is accounted for separately.

Services for shared parts of the building will be covered by the building service charge. Costs and services for facilities management will be covered by a separate facilities management Service Level Agreement, in development this financial year.



What terms will the occupancy agreement contain?

We understand that some terms in the occupancy agreement may be unfamiliar, and aim to guide you through the process smoothly. We apply standard property industry terms to the special circumstances of the healthcare sector, and aim to achieve consistency across our buildings.

However, we understand that each building is different, for example freeholds versus leaseholds, or multiple versus single occupancy. We will work with you directly on your occupancy agreement to ensure the terms fit your circumstances.


To start your journey towards signing an occupancy agreement with us, please contact your Property Manager, or our Customer Service team on:
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About us – NHS Property Services

We are a government-owned company which exists to help the NHS get the most from its estate so that healthcare professionals can focus on delivering excellent patient care. We have unparalleled property expertise and help our customers make informed decisions about their estates and on behalf of their local communities, so every patient can get the care they need in the best space and place for them.

Contact us – Customer Support Centre

 customer.service@property.nhs.uk

 0800 085 3015

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