

CITY HOUSING

Tenancy Fraud Policy





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1. INTRODUCTION

- 1.1. The Council is committed to ensuring that its housing resources are allocated fairly and used appropriately. Tenancy fraud undermines this commitment and deprives access to social housing for those in genuine need. The Council has an obligation to protect the property assets it owns and manages against fraudulent misuse.
- 1.2. The Regulator of Social Housing's Consumer Standards clearly define the framework that social landlords must operate within, and as part of the Tenancy Standard it is confirmed that landlords must take appropriate action to prevent and tackle tenancy fraud both pre-allocation and during the lifetime of a tenancy.
- 1.3. This policy sets out the Council's approach to preventing, detecting and addressing tenancy fraud. The policy also outlines the Council's responsibilities under the relevant legal framework relating to tenancy fraud. The Council adopts a zero tolerance approach to housing fraud and will take legal and other action against perpetrators wherever necessary.



2. SCOPE

- 2.1. This policy applies to all potential and current tenants of the Council, and is particularly relevant in relation to housing applications, housing allocation, and tenancy management.

3. DEFINITION OF TENANCY FRAUD

- 3.1. Fraud is committed when someone dishonestly makes a false or misleading representation, or dishonestly fails to disclose required information with a view to making a gain (financial or property) for themselves or another, or to cause loss to another, or to expose them to a risk of loss.
- 3.2. It is not necessary to show that a gain was actually made, only that the person intended to make a gain. A gain can include keeping what a person already has, as well as gaining something that they do not have.
- 3.3. Tenancy Fraud can include, but is not limited to:
- 3.3.1. **Unlawful sub-letting** – where the legal tenant sub-lets or parts with possession of their property, in breach of their tenancy agreement, without the consent of the landlord, in the knowledge that this action is in breach of their tenancy agreement. This is a specific offence contrary to the Prevention of Social Housing Fraud Act 2013.
 - 3.3.2. **Unlawful tenancy succession** – where a legal tenant dies and someone who is not legally eligible attempts to succeed to the tenancy.
 - 3.3.3. **Not using the property as the principal home** – where a legal tenant leaves the current property and has no intention to return and does not notify or make the Council aware.
 - 3.3.4. **Obtaining housing by deception** – where a person(s) obtains a Council tenancy by providing false or misleading information in order to secure this accommodation. Examples would include:
 - 3.3.4.1. Failing to declare ownership of a private property.
 - 3.3.4.2. Failing to disclose renting/occupation of another property.
 - 3.3.4.3. Failing to be honest or accurate in respect of reported household composition or financial status.
 - 3.3.5. **Key selling** – where a legal tenant or someone acting on their behalf or with their acquiescence accepts payment to give a third party his or her property.
 - 3.3.6. **Right to Buy** - Where false information is provided in an application to purchase a property under the Right to Buy Scheme, or dishonestly failing to disclose legally required information under this knowledge that it would be likely to render them ineligible for the scheme.
 - 3.3.7. The above list is not exhaustive but is intended to give an indication of the types of activities that would be considered Tenancy Fraud and which may prevent an eligible household from being housed.

4. PREVENTION AND DETECTION MEASURES

- 4.1.** The Council carries out several measures to prevent and detect Tenancy Fraud. These measures include, but are not limited to:
- 4.1.1. Verification** – The Council will utilise tenancy checks by way of visits at least once every two years to support ongoing prevention of tenancy fraud. At all visits verification of id will be required from the main tenant.
 - 4.1.2. Data-matching** – the Council will carry out data-matching exercises to identify and further investigate anomalies between information provided in support of housing applications and data held on other Council systems before tenancies are granted.
 - 4.1.3. Awareness campaigns** – the Council will conduct regular awareness campaigns to inform tenants about the consequences of Tenancy Fraud and how to report it. These campaigns will be shared across a variety of platforms including our monthly email bulletin to all tenants.
 - 4.1.4. Training** – wider training is provided to all staff and contractors to ensure that they are able to identify and report potential Tenancy Fraud effectively. All employees have a duty to report any suspicions around Tenancy Fraud to the Council's Fraud Team.
 - 4.1.5. Audits** – the Council's Fraud Team undertake regular audits to identify fraud and error with housing applications, and the Council is subscribed to the National Fraud Initiative, which enables the matching of data across Local Authorities and Government departments to identify potential fraud and error.
- 4.2.** The Council has a dedicated social housing Fraud Team comprising trained investigators whose primary role is to investigate offences contrary to the Prevention of Social Housing Fraud Act 2013 in relation to the sub-letting and parting with possession of properties and the Fraud Act 2006 in relation to offences of false applications for social housing or the Right to Buy. This team also investigates offences under the Forgery and Counterfeiting Act 1981 in relation to the provision of forged documents during housing applications.
- 4.3.** The Council uses a Data Warehouse repository which holds data from multiple Council and wider sources into one searchable database. Officers across the Fraud Team, Housing Management and Allocations and Applications Teams have access to this database.
- 4.4.** The Fraud Team works in partnership with the City Housing Directorate to investigate all potential cases of Tenancy Fraud.

5. INVESTIGATION PROCESS

- 5.1.** All cases of potential Tenancy Fraud are initially assessed by the Fraud Team.
- 5.2.** If the initial assessment indicates potential fraud has been attempted or carried out, a formal investigation will be conducted in conjunction with other relevant agencies such as other Local Authorities and Police.
- 5.3.** All investigations into cases of potential Tenancy Fraud are conducted in accordance with the Police and Criminal Evidence Act 1984 and other relevant legislation.
- 5.4.** Officers from the Fraud Team are trained to interview under caution. Interviews of this type are admissible in court as evidence and are routinely used as part of the prosecution process. The scope of investigations is not limited to Tenancy Fraud; the Fraud Team will also investigate offences relating to Council Tax and Benefit fraud as part of any wider investigation into potential fraud.
- 5.5.** Where an investigation concludes that there is sufficient evidence that Tenancy Fraud has been committed, a case will be prepared for consideration by the Council's Legal Services.

6. CONFIDENTIALITY

- 6.1.** Under the UK General Data Protection Regulation (UK GDPR), Data Protection Act 2018 and the Human Rights Act 1998, personal and sensitive organisational information, however received, is treated as confidential. This includes:
 - 6.1.1.** Anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or committee member.
 - 6.1.2.** Sensitive organisational information.
- 6.2.** Officers of the Council will ensure that they only involve other agencies and share information with the consent of the affected resident, unless:
 - 6.2.1.** It is for the purposes of investigating suspected Tenancy Fraud or other criminal offences.
 - 6.2.2.** Legal exemptions apply, negating the need for consent.
 - 6.2.3.** The information is necessary for the protection of children and young people.
 - 6.2.4.** The information is required by law such as being requested by Police during a criminal investigation.
- 6.3.** Where a person has made a report of potential Tenancy Fraud, they should be aware that the Council will only be able to provide limited information on the progress or outcome of the investigation due to Data Protection considerations.

7. CONSEQUENCES OF FRAUD

- 7.1.** Where Tenancy Fraud has been identified, the Council will consider taking the following action(s):
- 7.1.1. Legal Action** – pursuing legal action against individuals suspected of Tenancy Fraud, which may include eviction and/or prosecution.
 - 7.1.2. Recovery of Property** – taking action to recover properties obtained or being used fraudulently in order to reallocate them to those in genuine need of social housing.
 - 7.1.3. Financial Penalties** – imposing financial penalties where this is appropriate. These would include:
 - 7.1.3.1.** Out of court settlements, unlawful profit orders, third party money orders and unjust enrichment claims. Monies may be recovered directly from the tenant(s), other perpetrators or via court orders.
 - 7.1.3.2.** The securing of debt against assets where appropriate, such as Land Registry charges against private property, attachment of earnings or bankruptcy proceedings.
- 7.2.** Where allegations of Tenancy Fraud have been substantiated following an investigation, tenant(s) and other perpetrators will usually be given an opportunity to voluntarily surrender their tenancy and/or return any profit made unlawfully to the Council. Failure to voluntarily surrender the property or reimburse the Council may result in legal action being instigated. The Council will consider whether to take civil action as appropriate, either independently or in conjunction with other partners depending on the scope and outcome of the investigation.
- 7.3.** Any person found guilty of Tenancy Fraud may be excluded from re-applying or being re-allocated Council housing for a limited time or indefinitely.

8. SUPPORT FOR TENANTS

- 8.1.** As a reasonable landlord, the Council will in all cases provide advice and assistance to tenants where it is identified that tenancy conditions are being breached, where we consider that this is an unintentional rather than a deliberate breach.
- 8.2.** We will maintain regular communication with tenants to ensure that they are aware of their tenancy conditions and responsibility, the importance of compliance with these conditions and the consequences of non-compliance.

9. MONITORING AND REVIEW

- 9.1.** This policy will be reviewed annually to monitor effectiveness and respond to any legislative changes.
- 9.2.** The Council will monitor performance against fraud prevention, detection and prosecution measures and report these accordingly.

10. CONTACT INFORMATION

- 10.1. Citizens should report suspected Tenancy Fraud via the Council's website:
www.birmingham.gov.uk/info/20011/your_council/261/report_fraud
- 10.2. Council staff should report potential Tenancy Fraud to Birmingham Audit Intelligence Service:
BAIS@birmingham.gov.uk

11. EQUALITY AND DIVERSITY

- 11.1. The Council is committed to welcoming and valuing diversity, promoting equality of opportunity and tackling unlawful discrimination in accordance with the Equality Act 2010. The Council, in delivering this Policy, will have regard to the Public Sector Equality Duty and ensure that no individual is discriminated against based on their sex, sexual orientation, marital status, pregnancy and maternity, gender reassignment, race, religion, belief, disability or age.
- 11.2. This policy has been subject to an Equality Impact Assessment to determine the impact it will have on those groups identified as having a protected characteristic under the relevant legislation.

12. COMPLAINTS

- 12.1. For information on the Council's Compliments, Comments and Complaints Policy, or to make a complaint, please visit [Comments, compliments and complaints | Birmingham City Council](#).



