

CITY OF LINCOLN COUNCIL

DEPARTMENT OF HOUSING AND COMMUNITY SERVICES

TENANCY FRAUD POLICY

1. Objectives of this policy

1.1 The objectives of this policy are:

- to aim to ensure that the social housing owned by the city council is let in accordance to its lettings/allocations policy;
- to reduce waiting times for legitimate applicants by restoring unlawfully-occupied homes to the housing stock;
- to aim to ensure that the city council's tenants do not abuse the use of the public funds through which their homes are provided and maintained and to create a framework of measures to reduce the risk of tenancy fraud and to tackle it effectively where it exists.

2. Scope of this policy

2.1 This policy applies to everyone who is eligible to be housed by us and all who hold current council tenancies. It also applies to people who committed tenancy fraud while they were tenants of ours but whose fraud was not discovered until after they stopped being our tenant.

2.2 There are a number of types of tenancy fraud covered by this policy, including:

- unlawful and illegal sub-letting of our homes;
- multiple sub-lets within one of our homes;
- the non-occupation by a tenant as their sole or principal home;
- a wrongly-claimed succession and/or retention of a tenancy following the death or vacation of the lawful tenant following a previous succession or of a non-qualifying person whose circumstances do not make them eligible for a discretionary succession under our tenancy policy;
- an unauthorised assignment of tenancy including mutual exchanges;
- "key-selling", where the tenant leaves the property and passes on the keys in return for one-off lump sum payment or favour;
- obtaining a tenancy fraudulently, such as by presenting a false identity or through lying about current housing circumstances, be that for the housing register or as a homeless person.

2.3 In addition, within any restrictions imposed through data protection legislation the council's landlord service will assist other city council departments in tackling other housing-related fraud such as that related to housing or council tax benefit.

2.4 Again, within any restrictions imposed through data protection legislation we will co-operate with other registered providers in relation to their tackling of tenancy fraud.

3. Policy statement

3.1 We will aim to **prevent and minimise the risk of**, tenancy fraud by a range of measures, including:

- reviewing our existing tenancy agreement and strengthening it where necessary to achieve the objectives of this policy;
- guidance and publicity in the form of leaflets and posters, website, tenants publications, local radio and television campaigns. This may include the explicit naming of known serious tenancy fraudsters;
- by a rigorous process of verifying all applicants' identity and circumstances including carrying out home visits upon offer of accommodation, verifying occupation of the stated address, verifying identity and taking photographs of applicants and verifying this again upon offer of accommodation and once more at the three-week settling-in visit which should be carried out on all new tenants.

3.2 Within available resources we will aim to **identify** tenancy fraud through a range of measures, including:

- introducing a system of application refreshing at regular intervals for applications that are more than two years old;
- verifying at the three-week settling-in visit that the individuals signed up are the same as those being visited;
- carrying out targeted tenancy inspections in areas, schemes or blocks where there is a known or perceived incidence of tenancy fraud;
- acting, using professional judgment, on reports and "tip-off" evidence of individual tenancy fraud by investigating such reports;
- making it easy and safe for people to report suspected fraud to us by introduction, for example, of a "fraud hot line" or similar web-based reporting tool;
- signing up to and participating in the Audit Commission's national fraud initiative or any successor to it;
- signing up to and participating in any similar regional or sub-regional partnership agreements or protocols with other providers;
- within the requirements of the law, carrying out general or targeted data-matching or data verification exercises to identify possible tenancy fraud;
- co-operating and working with the police and other statutory bodies to prosecute criminal offences committed under the Prevention of Social Housing Fraud Act 2013, principally those of illegal sub-letting, key-selling and not living in one's home as its sole or principal residence

3.3 Where tenancy fraud has been identified and established we shall take immediate action against the person who has committed the fraud thus:

- If **identity or housing circumstances fraud** has been committed by someone who is not yet a tenant, we will withdraw any offer of tenancy and take such action as is available within our allocations/lettings policy, which may include removing the applicant altogether from the waiting list or freezing the application for a certain length of time depending upon the nature of the fraud;
- If unlawful **sub-letting¹** or **multiple sub-letting** has been committed by a tenant of ours we *will* take outright possession action against all who have commercially, and for profit, sub-let

¹ A distinction needs to be made between sub-tenants and lodgers. A sub-tenant has what is called "exclusive possession" of all or part of a dwelling. This usually means that they have *secure* and *sole* possession to a dwelling or part of it. They will also have a tenancy agreement and probably a rent book. A lodger has none of these things: they occupy a bedroom in the property but do not have secure possession of it (i.e. under lock and key). They don't have a tenancy agreement. Their legal status is that of holding a bare licence to occupy.

their home and *may* take outright possession action against those who have allowed others to occupy their home, including the **non-occupation of the property as someone's sole or principal home** but have not profited from doing that but may also take lesser action, such as applying for a suspended or demotion order. We will also co-operate with the police in their prosecution of a criminal offence committed under the Prevention of Social Housing Fraud Act 2013. This does not include, therefore, those who have left their home through violence or threats of violence to the tenant or a member of the tenant's family;

- If **key-selling** has been committed by a tenant we *will* take outright possession action against that person or those persons and work with the police in prosecuting a criminal offence under the Prevention of Social Housing Fraud Act 2013;
- If we discover that an **unauthorised assignment** of a tenancy has taken place, including an unauthorised mutual exchange, we will take immediate possession action against the original tenant, which will mean the eviction for unauthorised occupation of the replacement occupier;
- If we discover that a wrongly-claimed succession has taken place and it is a succession that, under operational procedures for the granting of a statutory or discretionary succession, we would not have granted such a succession to that person we will take possession action and will evict them from the property;
- If acts of tenancy fraud have resulted in collateral damage to our property we will pursue recovery of the costs of repair and reinstatement from the person who has committed the fraud rather than the person who is in occupation of the property;
- If any act of tenancy fraud includes committing a criminal offence we will always notify the police;
- We will seek unlawful profit orders against tenants who breach their tenancies by illegal sub-letting and/or key-selling where it is clear that they have profited from those acts. We will also co-operate with the police in their criminal proceedings for unlawful profit orders.

- 3.4 We accept that in the cases of sub-letting, key-selling and unauthorised assignments there may be innocent people who are merely the victims of such fraud. When such people are identified we will always carry out a risk assessment on these people and decide on what action, if any, we should take according to the particular circumstances. This could include temporary or permanent re-housing but will always include offering advice and support or directing them to other agencies that may be able to help.
- 3.5 Regular monitoring reports of and action to tackle tenancy fraud will be made to the appropriate bodies.
- 3.6 Training will be given to staff to equip them to prevent, identify and tackle tenancy fraud within the scope of this policy.

4. Tenancy fraud strategy

- 4.1 The implementation of this policy will be via a rolling three-year tenancy fraud strategy that will be made up of an action plan fulfilling a number of objectives.
- 4.2 The strategy will be costed and an appropriate budget will be set aside for its fulfilment.
- 4.3 The lead officer for implementing the tenancy fraud strategy will be the area housing manager of the central team.
- 4.4 The lead officer will be responsible for the delivery of the strategy and the regular reporting of progress made against the action plan.

Council tenants are allowed to take in lodgers; they are not allowed to sub-let the entire dwelling [full stop] or sub-let a part without our permission..

5. Equality and diversity

5.1 We aim to ensure that our policies and procedures are fair and transparent; and we work towards achieving balanced and sustainable communities in accordance with our equality and diversity policy and strategy.

6. Responsibility

6.1 The Director of Housing and Community Services or equivalent is ultimately responsible for the effective implementation of this policy.

7. Monitoring and review

7.1 This policy will be reviewed every three years unless required earlier through legislative or regulatory changes.

7.2 The three-year strategy will also require us to examine ways we can benchmark our effectiveness in tackling tenancy fraud both internally and externally through organisations such as HouseMark.

8. Other external and internal influences on this policy

8.1 This policy has been created and should be implemented in conjunction with the following internal documents:

- Allocations policy;
- Equality and diversity policy and strategy;
- Anti-social behaviour, harassment and hate crime policies;
- Tenancy policy;
- Safeguarding vulnerable adults and children from abuse policies;
- Rechargeable repairs policy.

8.2 Similarly this policy has been created and should be implemented in conjunction with the following external documents:

- Housing Act 1985;
- Housing Act 1996;
- Homeless Act 2002;
- Anti-Social Behaviour Act 2003;
- Civil Partnership Act 2004;
- Housing and Regeneration Act 2008;
- Equality Act 2010;
- Localism Act 2011;
- Prevention of Social Housing Fraud Act 2013