



## Tenancy Fraud Policy

### 1. Introduction

1.1 This policy provides the framework for Medway Council (the 'council') to prevent, identify and address social housing tenancy fraud within the council's social housing stock. It does not extend to dealing with housing fraud in the private sector.

### 2. Purpose

2.1 The purpose of the Tenancy Fraud Policy is to outline Medway Council's approach to tackling social housing tenancy fraud

2.2 This policy is specifically designed to:

- Ensure the fair allocation of the council's social housing stock to those with the greatest need.
- Prevent fraudulent housing applications from entering our systems and detect any fraudulent applications already in the system.
- Deter people from trying to commit tenancy fraud.
- Raise awareness of social housing tenancy fraud amongst staff and tenants.
- Recover fraudulently obtained property or property that has been abandoned, passed on or illegally sub-let.
- Prevent abuse of the right to buy scheme.
- Outline the actions taken against people who commit tenancy fraud.

### 3. Scope

3.1 This policy extends to all of the council's housing stock, its occupiers, the relevant council services including Housing and Legal Services, the Audit and Counter Fraud Team and the council's partners.

### 4. Legislation and Guidance

#### 4.1 External

- Chartered Institute of Housing; How to tackle tenancy fraud (2012)
- Chartered Institute of Housing; How to prevent right to buy and right to acquire fraud (2013)
- Prevention of Social Housing Fraud Act 2013;
- Housing Act 1985;
- Housing Act 1996 s.171 and s.214
- Human Rights Act 1998 and the European Convention on Human Rights
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998;
- Law of Property Act 1925;
- The Fraud Act 2006;
- The Proceeds of Crime Act 2002
- The Local Government Counter Fraud and Corruption Strategy 2019 -2019
- The Localism Act 2011

#### 4.2 Internal

- Medway Council Tenancy Agreement(s)
- Medway Council Anti Fraud and Corruption Policy

### 5. Policy

#### 5.1 Types of Housing /Tenancy Fraud

#### 5.2 False Applications for Housing

- This type of fraud involves the submission of an application for housing containing false or misleading information, which includes the omission of relevant facts, with the intention of increasing eligibility to enter the housing register or to provide an increased priority over those already on the waiting list.
- Examples include failure to declare an existing tenancy, either privately rented or other social housing, falsely claiming to be disabled, giving false information about the number of occupants to increase eligibility or the size of a property to be allocated or falsely claiming to be homeless to qualify for temporary housing.
- Failure to report a change in circumstance that impacts on eligibility or priority would also constitute an offence in relation to the housing application.

#### 5.3 False claims for Succession

- Tenancy successions can only take place when a person has been resident with the registered tenant(s) as their principle home for a period of at least 12 months. When the registered tenant passes away, other residents of the household (normally relatives) can apply to succeed the tenancy and become a council tenant. Further information is detailed in the Succession Policy.
- Fraudulent applications may be received from persons claiming to have been resident with the deceased tenant, when in fact they have been resident elsewhere or they fail to disclose relevant information that would make them ineligible for succession rights.

#### 5.4 Key Selling

- Key selling involves the tenant of a council property passing on their keys to another individual in return for a one off payment. In certain cases a person may apply to the housing register purely to facilitate the selling on of the property.

#### 5.5 Subletting, Parting with Possession or Non-Occupation

- Under the terms and conditions of a council tenancy the tenant must reside in the property as their principal home
- Subletting the entire property to another individual or individuals, or moving out and leaving someone else in occupation is not permitted and is a criminal offence. Tenants who sub-let a property often continue to pay rent to the council while letting the property at a much higher level on the private rental market, making significant financial gains from their actions.

#### 5.6 Right to Buy Fraud

- Most Secure council tenants have the right to purchase (sheltered secure

tenants do not) their council home at a discounted price, the level of discount being dependent on the period of time that the individual has been a tenant. As detailed in the Right to Buy policy <http://www.medway.gov.uk/pdf/Right%20to%20Buy%20Policy%20published%202017.pdf>

- Right to Buy fraud occurs when a tenant has been in breach of their tenancy or committing some other form of tenancy fraud, such as sub-letting and then submits an application to purchase the property at the discounted value, lying about their circumstances in order to ensure that they qualify for the discount.

#### 5.7 **Culture**

- The council is determined that the culture and tone of the organisation will continue to be one of honesty and opposition to fraud and corruption.
- The council's staff and members, at all levels, are an important element in its stance on fraud and corruption and should lead by example. They are encouraged to raise any concerns and can do this in the knowledge that these will be treated in confidence and properly investigated.
- Instances of suspected/alleged housing/tenancy fraud should be referred to the Audit & Counter Fraud Team for investigation. Officers can be contacted on 01634 33 22 33 via email at [investigation.team@medway.gov.uk](mailto:investigation.team@medway.gov.uk).
- All referrals made anonymously will be treated in accordance with the council's whistleblowing policy.

#### 5.8 **Prevention**

#### 5.9 **Staff**

- Appropriate employees both internally within the council and externally will receive housing fraud awareness training.
- All Fraud Investigation Officers will undertake training in order to ensure that they carry out their duties in accordance with recognised standards for Fraud Investigation as set out in Criminal Procedures and Investigation Act 1996.

#### **Systems**

- All employees with access to the confidential details of applicants will be responsible for ensuring the control of physical access to the data and will be responsible for compliance with the Data Protection Act and the Freedom of Information Act. This responsibility requires managers to ensure that the physical access to equipment is restricted, as far as practical, to authorised users only.
- All manual Housing Fraud records must be kept securely filed when not in use and access to these files must be restricted to designated Fraud Investigators only.
- All telephone calls received in relation to Housing Fraud will be recorded and a note of the content of the conversation will be kept on file.

#### 5.10 **Verification**

- It is important to detect and prevent fraud in the first instance and as such the council has adopted a framework to check and verify all original documents.

- All applications for housing, succession or other assignment, and Right to Buy will be subject to verification checks to ensure that all the details provided are accurate and true. This is to prevent fraudulent applications for housing entering the system and ensure that those applying for succession or Right to Buy have genuine entitlement.
- Such verification may include checks of declared address history, household occupants and home visits to establish occupancy.

#### 5.11 Identification

- Obtaining evidence of identity can prevent tenancies being obtained through deception.
- As a consequence, housing applicants will be asked to provide two forms of ID when signing their tenancy and collecting the keys to a property.
- Applicants will be asked consent to having a digital photograph taken at the sign up appointment.
- The reasons for requesting a photograph will be clearly explained. The Council complies with all data protection requirements regarding the use of personal information.
- All such photographs taken will be electronically stored on the applicant(s) tenancy file. The tenant will be asked to sign a consent form which states that they agree to the storing of their photograph on file.

#### 5.12 Detection and Investigation

- Whilst encouraging genuine applicants to apply for housing, the council has adopted a number of initiatives to detect fraudulent applications that may have entered the system and take steps to identify any council properties that may have been abandoned, illegally passed on to relatives or illegally sub-let.
- These methods include;
  - Regular reviews of all housing applications to check for changes in circumstances and ensure that people on the register remain eligible.
  - Tenancy Audits.
  - Participation in the National Fraud Initiative run by the Cabinet Office.
  - Carrying out joint fraud investigations with other bodies such as the Single Fraud Investigation Service, Border Agency, Kent Police, other Local Authorities and other investigation departments.
  - Checks of and visits to tenants applying for Right to Buy to ensure that they continue to occupy the tenancy address.
- Members of staff within Landlord Services are also able to refer suspected cases of fraud to the Audit & Counter Fraud team.
- As well as identifying fraud through pro-active initiatives, the council; Operates a fraud 'hotline' for members of the public to report suspicions or concerns – 01634 332233.
- Publicises anti-fraud initiatives and press releases related to successful prosecutions for fraud.

- Encourages members of the public to come forward and report their suspicions or concerns regarding housing or tenancy fraud.
- All referrals passed to the Audit and Counter Fraud Team will be sifted and vetted for strength of evidence. All those cases where it is considered that there are sufficient grounds to investigate will be progressed to establish whether any criminal offences have been committed and, in the case of any form of suspected non-occupation or subletting, whether there has been any breach of tenancy terms and conditions.

### **Supporting victims of unlawful subletting**

- Some unlawful sub-tenants may be unaware of their unlawful status and could be vulnerable to illegal eviction by the tenant at little or no notice when the situation has been uncovered. Unlawful sub-tenants are also vulnerable to eviction by the Council when it sets about recovering the property.
- Victims of unlawful subletting will be offered advice from the Housing Options and Private Sector team in relation to their future housing options and rights.

### **Action taken regarding tenancy fraud**

- Landlord Services always take enforcement action where fraud has been detected.
- Tenancy fraud investigations will be carried out by trained investigators from the Council's Audit & Counter Fraud Team and where tenancy misuse is discovered then appropriate action will be taken against the perpetrators.
- Where tenancy fraud has been detected and thoroughly investigated civil action may be taken to repossess the unlawfully obtained accommodation. This will be done by serving one of the following:
  - Notice of Seeking Possession (NOSP)
  - Notice to Quit (NTQ)
  - Notice of Possession Proceedings (NOPP).

### **6. Role, Responsibilities and Authority**

- The Assistant Director of Physical and Cultural Regeneration retains the overall responsibility for the implementation of this policy prior to involvement from the Audit & Counter Fraud Team.
- The Head of Housing Management is responsible for the operational delivery of this policy and the associated procedures prior to referrals to the Audit & Counter Fraud Team.
- All employees involved in Tenancy Management are responsible for implementing this policy.

### **7. Monitoring, Review and Evaluation**

- Senior management will monitor the effectiveness of this policy.
- This policy will be reviewed every two years or in line with legislative or regulatory changes.

## **Policy Version Control Sheet**

Policy Title: Tenancy Fraud Policy

Policy Author(s): Business and Partnership Officer, Tenancy Services Manager

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Cross References: Tenancy Management Policy