

Report of:	Head of Housing and Partnerships
Contact Officer:	Belinda Wildey
Telephone No:	01543 464 443
Portfolio Leader:	Housing
Key Decision:	Yes
Report Track:	Cabinet: 14/03/19

CABINET
14 MARCH 2019
TENANCY FRAUD POLICY

1 Purpose of Report

- 1.1 To agree and approve the Council's Tenancy Fraud Policy.

2 Recommendation(s)

- 2.1 That the Council's Tenancy Fraud Policy, attached as Appendix 1 to the report, be agreed and approved.
- 2.2 That the Head of Housing and Partnerships, in consultation with the Housing Portfolio Leader, reviews the Tenancy Fraud Policy every three years or in the event of changes in legislation.

3 Key Issues and Reasons for Recommendations

Reasons for Recommendations

- 3.1 The Tenancy Fraud Policy is approved in order to detect and deter tenancy fraud across the District.
- 3.2 To encourage people to report tenancy fraud and understand the impact of tenancy fraud on the public purse and on social housing.

4 Relationship to Corporate Priorities

- 4.1 This report supports the Council's Corporate Priorities by ensuring existing homes are allocated fairly to those most in need:
- (i) Promoting Prosperity – Increase housing choices and make best use of housing stock.

- (ii) Improving Community Wellbeing: Environment, Partnerships and Community Safety – Supporting Vulnerable People, Sustaining Tenancies and building positive relationships.

5 Report Detail

- 5.1 Nationally, it is estimated that there are 98,000 cases of social housing tenancy fraud each year. The Council participates with the National Fraud Information Team in relation to data matching and, as a result of this work, a potential case of tenancy fraud is investigated.
- 5.2 Tenancy Fraud continues to be a key fraud risk area; investigations are carried out across all aspects of housing, from initial housing applications to the investigation of tenancy breaches and right to buy concerns.
- 5.3 In relation to the Council’s housing stock, the results of the investigations are:

Financial Year 2017 / 2018:		
Type of Fraud	Number of Investigations	Outcomes
Non Occupation	12	4 Properties Recovered
Sublet Property	3	2 Properties Recovered
Obtaining Housing by Deception	0	0
Fraudulent Right to Buy Application	3	2 – 1 RTB Withdrawn & 1 property recovered
Financial Year 2018 / 2019:		
Type of Fraud	Number of Investigations	Outcomes
Non Occupation	11 (4 on going)	1 Property Recovered
Unlawful Subletting	1	0
Obtaining Housing by Deception	1	1 Property recovered
False Right to Buy Application	1	1 RTB withdrawn & property recovered

- 5.4 The most common types of social housing / tenancy fraud are:
- Non-Occupation and Keys Selling – the tenant doesn’t occupy the property as their only or principal home;
 - Unlawful Subletting – a tenant lets out the whole of their property to someone else, often they will be charging rent higher than the Council;

- Obtaining housing by Deception – the person gets allocated a Council home by giving false, inaccurate or misleading information on their housing application; and
 - False Right to Buy – a tenant or resident makes a right to buy application and gives false information on their application.
- 5.5 Tenancy Fraud is detected following the receipt of information from neighbours, other Council departments, other agencies (such as Police and Social Services), by new Tenancy Visits and Tenancy Audit Visits undertaken by Officers within the Neighbourhood Services Team.
- 5.6 Following receipt of the information, a detailed and robust investigation is carried out to provide evidence of the suspected fraud, which may entail confirming ownership of the property, non-occupation through data matching and credit reference checks with agencies.
- 5.7 On receipt of sufficient evidence, a ‘Notice of Possession Proceedings’ may be issued to recover the property. In a significant number of cases, a tenant will relinquish their tenancy when presented with the evidence. Where the tenant fails to do so, possession proceedings are issued through the County Court.
- 5.8 The Tenancy Fraud Policy will ensure that tenants understand the process and what actions are to be taken where evidence of fraud has been detected. However, early intervention and prevention is the priority, and it is hoped that a clear policy will deter prospective and existing tenants from committing tenancy fraud.

6 Implications

6.1 Financial

None.

6.2 Legal

A local authority has powers under the Prevention of Social Housing Fraud Act 2013 to prosecute tenants who sub-let their properties. If convicted, they can receive an unlimited fine and/or be imprisoned for up to two years.

6.3 Human Resources

None.

6.4 Section 17 (Crime Prevention)

None.

6.5 Human Rights Act

Article 6 :Right to a Fair Trial

These rights are not absolute rights, but qualified rights. Any action to recover a property from a tenant is subject to possession proceedings at County Court.

Article 8: Right to respect for private life, family life and the home

These rights are not absolute rights, but qualified rights. The Council must take care to ensure that the human rights of all tenants are protected when considering individual cases. However, the Council has to balance the human rights of individuals against the human rights of other applicants for housing.

6.6 Data Protection

None.

6.7 Risk Management

None.

6.8 Equality & Diversity

This Policy has been subject to an Equality Impact Assessment. No negative implications have been identified.

6.9 Best Value

To deliver, economical, efficient and effective services and use benchmarking services to monitor the cost and service outcomes.

7 Appendices to the Report

Appendix 1: Tenancy Fraud Policy

Previous Consideration

None.

Background Papers

None.

Tenancy Fraud Policy

Housing Services



Tenancy Fraud Policy

Purpose of the Policy

This policy applies to all Cannock Chase Council properties excluding leasehold properties.

To ensure the fair allocation of Cannock Chase Council Housing stock to those customers in the greatest housing need.

To maximise the appropriate use of that limited housing stock by seeking possession where there are council properties unlawfully occupied.

To protect and make the best use of council stock and by ensuring that properties are only sold to tenants who legally qualify under the Right to Buy Scheme to make such purchases.

Consultation

Ward Members
Housing Tenancy Services
Housing Options
Housing Property Services
Housing Benefit & Local Taxation
Legal Services

Reference Documents

Tenancy Fraud Guidance Notes for Staff

Approval and Review

Approval:
Head of Housing & Partnerships

Review:
Initial annual review of this policy document - subject to every 3 years thereafter unless there are any legislative changes

Main contacts:
Belinda Wildey & Dave Willmore

The Council seeks to detect and tackle tenancy fraud through an annual programme of tenancy audits, which currently targets 5% of the housing stock (270 audits per annum). These are undertaken in respect of any tenancies where concerns have been raised together with a randomly selected programme of other properties. Verification of a tenants identity is sought through signed photo identification whilst residence is established by viewing bank statement or utility.

Nationally it is estimated that there are **98,000** cases of social housing tenancy fraud with approximately **2%** of tenancies being fraudulent.



1 Introduction

This policy provides the framework for Cannock Chase Council to prevent, identify and address tenancy fraud within our housing stock.

2 Definitions

Tenancy fraud can present itself in various forms and can occur at any stage of a tenancy. The following list is not exhaustive but includes the main types of tenancy fraud:-

- Unauthorised subletting
- Non occupation by the tenant(s) as their main and principal home.
- Wrongly claimed succession - retention of a tenancy following the death or vacation of the tenant (s).
- Unauthorised assignment of the tenancy - mutual exchange or transfer of tenancy without permission.
- Right to Buy fraud - application by a person who is not the tenant or the tenant does not legally qualify for the scheme.
- Fraudulently obtaining a tenancy by misrepresentation of identity or circumstances.

3 Why tackle tenancy fraud?

Nationally it is estimated that there are 98,000 cases of social housing tenancy fraud with approximately 2% of tenancies being fraudulent. It is important to address the issue due to:

- The high demand on the waiting list for properties
- The impact that tenancy fraud can have on the community
- Releasing properties for the purposes of rehousing is significantly cheaper than development.
- The cost of tenancy fraud to the public purse, particularly the cost of housing families in temporary accommodation.



4 Prevention

In an attempt to prevent tenancy fraud, we will endeavour to;

At the allocation stage, thoroughly check a potential tenant's housing application form to ensure that all questions have been answered and that the required housing history has been provided. Credit reference checks may also be undertaken if an application appears to be fraudulent.

At tenancy sign up, explain subletting and the consequences of breaching tenancy conditions in respect of this clause and in respect of using the property as their only or principal home.

Take a copy of photo I.D that will be stored in accordance with GPDR (General Data Protection Regulations) in order to cross reference identity of the occupant in the future.

Undertake a new tenancy visit in line with current procedure after the tenancy commencement date, in order to check that the tenant has taken up residency and is using the property as their main and principal home.

Conduct tenancy audits on a percentage of households each year to verify that the residents are the intended occupants, the tenancy audits are recorded as monthly local performance indicators.

On acceptance of a Right To Buy form, a home visit will be carried out to the named tenant as per the Right to Buy procedure.

Use a range of publicity methods to raise awareness of tenancy fraud amongst customers, the public and partner agencies and undertake periodic publicity campaigns.

Advertise how tenancy fraud can be reported confidentially on our website by calling a free phone fraud reporting number or using the Corporate online 'Report It' form.



Publicise cases where we have successfully gained possession of a property or prosecuted persons for tenancy fraud.

All officers dealing with Housing Fraud are trained in line with Policy and Procedures and on any statutory changes. Joint training is also provided in conjunction with partner agencies.





5 Allegations and Investigations

Following an allegation of tenancy fraud that is yet unfounded, the Housing Department will carry out preliminary checks. At this stage it is important to gain knowledge from all available sources where information sharing protocols exist.

All allegations of tenancy fraud shall be recorded, investigated and outcomes monitored. Where these checks indicate that a full investigation is justified, the case will be referred for further investigation to the Local Taxation and Benefits Section.

6 Enforcement

Legal advice shall be sought prior to taking criminal or civil action we will review and apply the relevant tests to evidence collated and considers whether an allegation of tenancy fraud can be substantiated, taking legal advice if necessary.

Without prejudice to any criminal action we consider taking, the relevant notice may be served to terminate the tenancy if it is considered that, on the balance of probabilities, tenancy fraud has occurred.

We will not refer matters to the Civil courts where the relevant property and all keys are surrendered. If cases are referred to court then we will seek to recover the relevant court costs. Even if the property is surrendered, we may still pursue criminal prosecution in certain circumstances.



- 7** Cannock Chase Council shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions by meeting the needs of those people who are vulnerable.

Tenancy fraud is also covered within:

Housing Act 1985
Housing Act 1988
Prevention of Social housing Fraud Act 2013

8 Monitoring and Reporting

Any allegations will be recorded, investigated and actioned in accordance with Cannock Chase Council Tenancy Fraud Policy and Procedures. The quarterly performance reviews are undertaken and end of case investigation reports are signed off by Housing Services in accordance with the Service Level Agreement.

9 Review of Policy

This policy will be reviewed after 12 months then every 3 years thereafter by the Head of Housing and Partnerships or following any new or revised legislation.



10 Responsibilities

Responsibility for this policy sits with the Strategic Housing & Tenancy Services Manager

11 Equality and Diversity

This Policy will be carried out in conjunction with Cannock Chase Council's Equality & Diversity Strategy and has been subject to an Equality Impact Assessment. We will ensure that no person or group of persons will be treated less favourably than another person or group of persons on account of any diversity strand. We will also ensure that residents have fair access to our tenancy service and provide translation services for community languages when required.

We will give due regard to our Public Sector Equality Duty when deciding whether to take formal criminal or civil action against an individual.





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Cannock Chase Council

Civic Centre, Beecroft Road, Cannock, Staffordshire WS11 1BG

tel 01543 462621

email customerservices@cannockchasedc.gov.uk

www.cannockchasedc.gov.uk