



Fraud Policy

August 2020

Tenant Services

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Next document review by: Patricia Andrade

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Approved by: To Be Confirmed

1. Introduction

Tenancy fraud presents a serious challenge to Stroud District Council and its ability to effectively manage and allocate properties. In order to prevent the misuse of the housing stock and ensure that properties are correctly allocated to those most in need, it is recognised that Tenant Services must have a robust framework in place to tackle fraud wherever and whenever it arises.

This policy interrelates with Stroud District Council's Anti-Fraud and Corruption policy statement and strategy (including anti-bribery policy and anti-money laundering policy) by concentrating on preventing and detecting tenancy fraud along with punishing fraud and recovering losses.

2. Scope

This policy applies to all tenants of Stroud District Council properties and those accessing the housing register and identifies the relevant services which have a key role in the prevention and investigation of all aspects of tenancy fraud.

3. Purpose

This policy sets out the aims and objectives of Tenant Services to ensure that tenants adhere to their tenancy obligations, whilst setting out the service's redress through legal remedies where, following an investigation, reports of tenancy fraud are proven. Tenant Services has a limited number of properties available to let and allocations are prioritised according to housing needs. As a responsible Social Housing Provider, Tenant Services have a duty to make the best use of public resources and ensure Stroud District Council's homes are properly managed and are occupied by people legally entitled to live there.

Fundamentally, individuals and households who commit tenancy and Right to Buy fraud prevent people on the Gloucestershire Homeseeker Plus system from accessing social and affordable housing.

Tenant Services and the Right to Buy Team aim to prevent and detect fraud, and will take robust action against anyone found attempting to defraud them. Any tenant who commits tenancy fraud, may lose their tenancy, be ordered to pay Stroud District Council any unlawful profit gained by illegally subletting their property and additionally face prosecution in the criminal court.

Tenant Services will provide information to tenants and stakeholders on how to identify and report concerns relating to tenancy and Right to Buy fraud.

4. Aims

The aims of this policy are to:

- Be proactive in taking steps to prevent tenancy fraud occurring**
- Investigate potential tenancy fraud cases quickly and thoroughly**
- Use of the available powers to tackle tenancy fraud**

- Work in partnership with other statutory agencies to deal with fraud
- Keep abreast of good practice and the latest development of tackling tenancy fraud
- Detect and prevent of tenancy fraud
- Ensure Stroud District Council provides a consistent and proportionate response to all cases of tenancy fraud
- Maximise the availability of housing units and ensure they are available to individuals who are assessed as being in need of social and affordable housing

5. What is Tenancy Fraud

The term “fraud” is usually used to describe depriving someone of something by deceit, which might either be misuse of funds or other resources, or more complicated crimes like false accounting or the supply of false information.

Fraud was introduced as a general offence and is defined within The Fraud Act 2006. The Act details that a person is guilty of fraud if they commit any of the following:

- Fraud by false representation; that is if a person:
 - (a) dishonestly makes a false representation, and
 - (b) intends, by making the representation:
 - (i) to make a gain for them self or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.
- Fraud by failing to disclose information; that is if a person:
 - (a) dishonestly fails to disclose to another person information which they are under a legal duty to disclose, and
 - (b) intends, by failing to disclose the information:
 - (i) to make a gain for them self or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.
- Fraud by abuse of position; that is if a person:
 - (a) occupies a position in which they expected to safeguard, or not to act against, the financial interests of another person,
 - (b) dishonestly abuses that position, and
 - (c) intends, by means of the abuse of that position:
 - (i) to make a gain for them or another, or
 - (ii) to cause loss to another or to expose another to a risk of loss.

In addition, the Act introduced new offences in relation to obtaining services dishonestly, possessing, making, and supplying articles for the use in frauds and fraudulent trading applicable to non-corporate traders.

Fraud Act offences will apply to any false application for housing or Right to Buy, but also in any matter where an individual has misrepresented any fact or document to obtain, or attempt to obtain, a property from the Tenant Services

In addition, the Prevention of Social Housing Fraud Act 2013 (POSHFA) specifically created the offence of unlawful subletting and granted robust powers of investigation to Local Authorities. These powers allow Tenant Services and the Right to Buy Team to obtain information from financial institutions and utility companies without the tenant's knowledge or permission in not only subletting cases, but any matter where there is an alleged offence under the POSHFA.

In relation to cases of unlawful subletting, POSHFA also gives social landlords authority to apply to courts for an Unlawful Profit Order (UPO). Tenant Services and the Right to Buy Team may apply for any profit made, usually the difference between the rent charged by Tenant Services and the amount charged to the unlawful tenant. UPO's can be applied for via both Civil and Criminal courts.

6. Definitions

For the purpose of this policy, Tenancy and Right to Buy Fraud is defined as:

- Non-occupation by the tenant(s) as their only or principal home i.e. abandonment.
- Wrongly claimed succession.
- Unauthorised assignment of a tenancy including mutual exchange or transfer of a tenancy without permission from Tenant Services.
- 'Key selling' – where the tenant leaves a property and passes the key onto someone else either for a fee or not.
- Fraudulently obtaining a tenancy by misrepresentation of identity or circumstances.
- Unlawful subletting.
- Fraudulent Right to Buy Application.
- Any breach of the Tenancy Agreement held with Tenant Services.

Illegal / Unlawful Sub-Letting

A tenant moves out and sub-lets their home without the landlord's knowledge or permission. They often continue paying rent for the property directly to Tenant Services, but charge the person they are sub-letting at a much higher rate. It is unlawful and unfair to sublet and profit from a home which Tenant Services could allocate to someone legally entitled to live there. Unlawful subletting is a criminal offence and includes the tenant moving out and leaving relatives in the property too. Tackling unlawful subletting is key to providing social housing to those who are in greatest need.

Abandonment

Not using the property as the principle home is an expressed tenancy condition and failure to do so constitutes tenancy fraud. An example of this is where a tenant moves out and then moves in with a new partner at another address but holds on to their tenancy as 'insurance' in case the relationship breaks down, or allows siblings or other family members to remain in the property when they leave (see Sub-Letting above).

Obtaining Housing By Deception

A person is allocated a home by making a false application. Examples of this can include providing false information in their application, not telling Stroud District Council they are renting another property, not declaring that they own another property (in this country or abroad) or giving false information about who lives with them.

Unlawful Succession

Someone wrongly claiming succession may occur when a tenant dies and someone, who is not entitled to, tries to take over the tenancy. For example, they might say they lived in the property with the tenant before they died, when in fact they were living elsewhere. The Tenant Services' Tenancy Agreement and the Succession Policy clarify contractual and statutory considerations when a tenant dies.

Key Selling

When the tenant of the property is paid to pass their keys to another person and in return receive a one-off payment. The original tenant then does not occupy the property and has effectively miss sold it to another person. The tenant in this scenario should hand the keys back to the Tenant Services and on occasions Tenant Services, may support a targeted key amnesty.

Right to Buy/Acquire Fraud

When someone applies to buy their social rented home at a discounted price and:

- Provides false information
- Have unlawfully applied to purchase where the property has been subject to tenancy fraud
- Have entered into an agreement with a third party to buy the property on their behalf for a cash incentive
- A failure to report a change in circumstances

Benefit Fraud

When somebody knowingly, or dishonestly, receives benefit when they are not entitled to it. Some typical examples of this are when somebody fails to correctly declare their income and / or capital savings, fails to report a change in their circumstances, gives false information in relation to their claim.

Staff should also be aware of the following possible issues where investigations will normally be Police led and referred to as County Lines:

- CSE (Child Sexual Exploitation)
- Human trafficking
- Cuckooing

Any concerns should be reported to the Line Manager who will make the appropriate referral.

In respect of other internal policies, there may also be occasions where tenants breach planning regulations as well as their tenancy and it is important that Tenant Services and Right to Buy address such matters in a cohesive manner for the benefit of Stroud District Council and the community.

7. Approach to Tenancy Fraud

In delivering an effective response to tenancy and Right to Buy fraud, Tenant Services and Property Services will work in partnership with corporate resources to assist fraud detection and will play a part in the countywide tenancy fraud approach with other social landlords.

- **Prevent:** apply robust verification to all applications for housing and RTB
- **Detect:** seek to identify fraudulent activity and encourage stakeholders/tenants/staff to report any concerns
- **Investigate:** use both proactive and reactive processes to reveal evidence
- **Pursue:** interview tenants and where appropriate recover the property and/or commence legal proceedings
- **Publicise:** ensure that Tenant Services activities are reported both internally and externally to reassure Tenant Services customers and also to deter other people from abusing services
- Have trained staff ensure that Tenant Services employees have the skills required to identify fraud and the support thereafter to investigate

Investigation Actions

Where it is suspected that there may be tenancy fraud Tenant Services will take appropriate action. This may include a range of investigative actions such as:

- Attempt(s) to contact the tenant(s) using cold calling, telephone calls, emails and tenancy audit visits
- Utilising the internal documents such as gas servicing certificates and contractor visits
- Interrogation of Tenant Services data bases to identify signatures and identification documents
- Cross party checking with other statutory agencies in line with data protection legislation including the General Data Protection Regulation 2016 (GDPR) and the Data Protection Act 2018 (DPA)
- Visits to neighbours to gain general information
- Introductory visits Tenancy within the first 6 weeks of the sign up process being completed.

Tenant Services and the Right to Buy team are members of NAFN (National Anti-Fraud Network) and will make full use of the range of services available to ensure that properties are allocated to those in need and are legitimately entitled.

Prevent

Establishing preventative measures is the most cost effective way of tackling tenancy fraud; the focus of this will be on verifying information provided by the tenant when applying for social housing, when signing up for a new tenancy or when there is a change of circumstances to the household or income details.

Stroud District Council will conduct verification checks at various changes in the lifecycle of a tenancy, including:

- Application for social housing
- Sign up to a new tenancy
- As part of a tenancy audit
- Application for assignment, mutual exchange or succession
- Changes to the tenancy such as household composition or a request for an addition to the tenancy
- Right to Buy Application

Photographic evidence will take priority however if this is not readily available original documents will be requested such as:

- Medical card with National Insurance numbers
- P45, P60 or pay slip
- Birth, marriage, adoption certificates
- UK certificate of naturalisation
- Passport
- UK photo driving licence

Tenant Services and the Right to Buy Team will also use credit checks (via NAFN) to ensure that the information provided is correct and up to date.

Detect

Tenant Services, will regularly monitor information it is legally entitled to access, including shared data from government agencies focusing on tenancy and housing benefit fraud, credit rating and financial agencies, other social landlords and legally constituted anti-fraud partnerships, such as the Gloucestershire Landlords Tenancy Fraud initiative. Tenant Services, will also monitor tenancy and property records to identify alerts, trends and issues that may indicate instances of fraud.

Tenant Services is a founding member of the Gloucestershire Tenancy Fraud Forum (GTFF). The GTFF was launched with the aim to act as a local and regional vehicle which social housing providers and partner agencies could share best practice, information and guidance relating to tenancy fraud.

Tenants can report tenancy fraud online via Stroud District Council's website, specific email addresses of Tenant Services Officers and the general telephone number for the Council Office.

Investigate

Tenant Services will undertake thorough investigations into any alleged fraudulent activity – these will include credit checks, utility checks, verification of facts with other internal departments, such as benefits, and conduct unannounced visits where appropriate. Stroud District Council will comply with all applicable legislation in investigating tenancy fraud, including not limited to:

- GDPR and DPA which regulates obtaining, processing and holding data about specific, identifiable persons.
- Human Rights Act 1998.
- Regulatory Investigation Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016.
- Criminal Procedures Investigatory Powers Act 1996 (CIPA)
- Police and Criminal Evidence Act 1984 (PACE)

Tenant Services will work in partnership where applicable with statutory agencies such as the Police, the Department for Work and Pensions and the Border Agency, the Counter Fraud Unit and consider Memoranda of Understanding with any other relevant body.

Once all evidence has been gathered, interviews (under caution or not) will be conducted by the most appropriate agency, and Tenant Services will ensure that where applicable, notices are served to recover a tenancy to enable it to be allocated to a new household.

Pursue

Where a tenancy and/or Right to Buy fraud has been detected and thoroughly investigated Tenant Services will consider the following actions

- Civil action by the serving of either Notice of Seeking Possession (NOSP), Notice to Quit (NTQ) or Notice of Possession Proceedings (NOPP)
- Criminal action, where appropriate, as well as civil recovery of the tenancy
- Working closely with the relevant agencies to maintain district intelligence

Before taking any action, Tenant Services and the Right to Buy Team will undertake a proportionality assessment to determine whether it is reasonable to take such action, and will consider the impact and vulnerability of the customer as well as consider any other related policies.

8. Publicity

Tenant Services will provide accessible information explaining what tenancy fraud is and how to report it in the tenant's handbook, leaflets, newsletter and website. Tenant Services will produce articles in the tenants' newsletters to inform regarding reporting and any recovery of properties and/or prosecutions

Tenant Services will publish any successful action internally to demonstrate to staff the commitment to the protection of the housing stock, and encourage others to be aware of tenancy fraud and consider press releases when appropriate.

Tenant Services will also use other publicity campaigns to give advice and information to the tenants.

It should also be noted that those convicted for tenancy fraud may be excluded from the housing list for a period of time.

9. Prosecution

Tenant Services and the Right to Buy Team will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation more effectively. However, where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.

Each case will be treated as unique and considered on its own facts and merits with due consideration to the Equalities Act 2010 and the Human Rights Act 1998. All circumstances surrounding the case will be considered including the social benefits and costs associated with bringing the matter to the attention of the Courts.

The prosecution of offenders will be used judiciously but without hesitation, against those businesses or individuals where the law is broken and the health, safety, well-being or amenity of the public, employees and consumers are subject to serious risk.

Legal advice will be taken to ensure that only those cases presenting a realistic prospect of conviction will be pursued. Tenant Services and the Right to Buy Team will have due regard to the availability of any defences and to any explanation, apology or other issue referred to by the suspect by way of mitigation.

The decision to prosecute will take into account the criteria set down in the Code for Crown Prosecutors, issued by the Crown Prosecution Service. Both stages of the 'Full Code Test' as set out in the Code for Crown prosecutors.

10. Staff

Tenant Services will ensure that it employs suitable staff to carry out these service functions within Tenant Services by providing appropriate training and support, undertaking an assessment from the Disclosure and Barring Service (DBS), carrying out enhanced verification checks where appropriate and giving training on relevant legislation and related policies operated by Tenant Services.

Tenant Services contractors will be trained and advised to operate under the same principles applying to staff.

All staff will be given training, which will be updated on a periodic basis particularly when changes are made to the current legislations. All staff receive Fraud Awareness training.

Staff will be encouraged to report any suspicions of fraud to their Line Manager who will provide advice, encouragement and feedback throughout the life of an investigation.

11. Continual Improvement

Tenant Services will continue to work with partner organisations including the Gloucestershire Tenancy Fraud Forum to share resources, promote the tackling of tenancy fraud throughout the county and share best practice to improve Tenant Services performance.

Training will be ongoing for new and existing staff to maintain the momentum. It is also recognised that Tenant Services must use its investigation outcomes to future proof the service.

12. Data Protection

Tenant Services will share relevant information with third parties for the purposes of preventing, investigating and tackling tenancy fraud. When sharing personal information, we will comply with all aspects of the GDPR and the DPA. Tenant Services Privacy Notice can be found on the Council's website at <https://www.stroud.gov.uk/council-and-democracy/about-the-council/access-to-information/privacy-and-cookie-policy/privacy-notice>

Tenant Services participate in data matching exercises such as the National Fraud Initiative in order to detect and prevent fraud. This involves tenant data being shared with government or other social housing providers. The Council also assists government in their fraud enquiries.

13. Translation Statement

If you have any difficulties reading this information or need further assistance understanding Tenant processes please contact us on 01453 766321 or visit the Council's website at www.stroud.gov.uk

Tenant Services can produce this document in a variety of formats. Please let us know what you need and Tenant Services will try to assist you.

The Head of Housing Services will be responsible for the overall implementation of the Tenancy Fraud Policy.

14. Review

This policy will be reviewed on a three yearly basis, or amended subject to any change in legislation or service delivery.