Tenancy Fraud Policy

Reference:	HS_POL_HOU_TEN_1	**Author:**	Housing Services Manager/Assistant Director of Housing & Resident Engagement
Scope:	Housing Solutions	**Approved by:**	Executive Team
Legislation:	The Prevention of Social Housing Fraud Act 2013 The Fraud Act 2006 Housing Acts 1985/88/96 Data Protection Act 2018 General Data Protection Regulation Social Housing (Regulation) Act 2023	**Date of approval:**	March 2024
Regulatory/ Governance:	Regulator of Social Housing Regulatory Framework	**Date of next review:**	March 2027
Related Policies:	Tenancy Policy Allocations Policy Succession Policy and Assignment Policy Anti-Social Behaviour Policy Complaints & Compliments Policy Probity Policy Anti-Fraud, Theft and Bribery Policy Modern Slavery Statement Preserved Right to Buy and Right to Acquire Policy		

1. Policy Statement

1.1 Housing Solutions is committed to meeting the demand for social housing and providing a high quality day to day housing management service, Housing Solutions has implemented measures to ensure that our homes are available to and occupied by those who need them most and by those for whom they are intended .

The Tenancy Standard (being introduced in April 2024) under the consumer regulations within the Social Housing Act 2023 – sets requirements for the fair allocation and letting of homes and for how those tenancies are managed and ended by landlords. This includes that home are used for their intended purpose.

1.2 This policy sets out the measures we will take to prevent, detect and take action against those committing or suspected of tenancy fraud.

1.3 Housing Solutions will deliver this policy and its approach in partnership with key internal and external stakeholders.

1.4 This policy applies to all tenure types and enables us to support, resolve or enforce (as appropriate) all homes and properties we own and/or manage.

1.5 The purpose of this policy is to prevent, identify and act on the fraudulent use, or suspected fraudulent use, of our housing stock with the objective of minimising fraudulent activity and making best use of the housing stock owned and managed by Housing Solutions.

1.6 Housing Solutions is committed to tackling and minimising fraud and to acting swiftly and strongly where fraud is suspected and detected. We will investigate all forms of suspected tenancy fraud within 25 days.

1.7 Housing Solutions will provide support for those reporting or raising concerns in relation to suspected tenancy fraud, including reports of staff involvement in fraudulent activity.

Housing Solutions *'Anti Fraud, Theft and Bribery Policy'* sets out measures put in place to ensure reports of fraud committed by employees are investigated and actions are taken.

1.8 The roles and responsibilities relevant to this policy are:

Board	Supports the organisation in the fair and consistent application of this policy.
Executive Team	Responsible for approving this policy and any amendments from time to time.
AD Housing & Resident Services	Responsible for recommending the strategic direction of the policy that feeds into the operational delivery for residents.
Housing / Community Services / Home Ownership Manager	Responsible for overseeing the operational delivery and service quality of housing services and compliance with this policy
Housing / Sheltered housing Team Leader	Responsible for overseeing operational delivery of this policy
Housing / Sheltered / supported / Home Ownership officers.	Responsible for the operational delivery of this policy
All Staff	All staff are responsible for recognising the signs of tenancy fraud and reporting any concerns to the Housing Team.

2. Definitions

What is tenancy fraud?

Tenancy fraud covers unlawfully subletting social housing properties, not being truthful to get a tenancy, not living in the property, key selling or fraudulently submitting a Right to Buy/Right to Acquire application.

Tenancy fraud is a criminal offence which can carry a maximum sentence of 2 years imprisonment and/or a £50,000 fine.

There is a common misconception that tenancy fraud is a victimless crime, but unlawfully living in or subletting social housing deprives people or families who are already on long housing waiting lists of somewhere safe and affordable to live.

2.1 For the purposes of this policy the term 'tenancy fraud' refers to a property owned or leased by Housing Solutions which is suspected as being used for a purpose other than it is intended. It may also be referred to as social housing fraud, unlawful occupancy, unauthorised occupancy or tenancy misuse. The following are examples of tenancy fraud:

- **Unlawful subletting** - an unauthorised occupant resides in the property. This can include subletting the whole or part of the property to a third party without the consent of the landlord (Housing Solutions). It is made clear in the starter and assured tenancy agreements that unauthorised subletting is not permitted.
- **Key selling** - where a tenant 'sells' the keys to a property to another person in return for monies, goods or another benefit in kind .
- **Non-occupation** - where a tenant claims that their home is their only or principal home, but instead uses it as a secondary property and resides there infrequently or not at all.
- **Fraudulent successions** - where a tenancy has been retained/maintained following the death of the tenant without the consent or the knowledge of the landlord (Housing Solutions). This person may or may not have a legal right to succession.
- **Unauthorised exchange, assignment, or mutual exchange** - where a tenant(s) exchanges or assigns a property without the consent or knowledge of the landlord (Housing Solutions).
- **Fraudulent application for a housing transfer** - where a tenant presents false or misleading information in order to obtain a transfer. This includes misrepresentation of circumstances and/or providing false identification documents. This also includes obtaining housing by deception, where a person is granted a tenancy by giving false information on their housing application.
- **Fraudulent right to buy or right to acquire** - where a tenant might apply for a discount to purchase their Housing Solutions home and provides false information, or unlawfully applies for the discount where the property has been subject to tenancy fraud such as sub-letting. Or the tenant enters into an agreement with a third party to buy the property on the tenants behalf for a cash [or other] incentive.

3. Our Approach

All staff have a responsibility to identify, report and prevent tenancy fraud. However, Housing Officers will have ownership for investigating and leading on suspected fraud cases, with support from other relevant services in the business (for example income or home ownership

Preventing Tenancy Fraud

3.1 Housing Solutions seeks to prevent fraud by producing regular publicity and updates on tenancy fraud and the associated consequences relating to a tenancy.

3.2 Our residents will be given information on tenancy fraud at the pre sign up meeting,

within the tenancy sign up pack, on our website and in publications and other literature.

3.3 Pre-tenancy checks and verification involves an affordability check and pre-offer interview. As part of these checks the prospective tenant is required to provide their last 3 bank statements and relevant documents that verify, they are the person nominated to occupy the property. In the event these documents are unavailable, the verification process will not go ahead.

3.4 Documents accepted as part of the validation process include:

- Full UK or EU driving licence with photograph or a 10 year UK or E passport.
- A current debit/credit card with supporting bank statement showing their current address.
- DWP welfare benefits correspondence showing name and current address.
- Home office documents confirming the applicant's residency / nationality status.
- For prospective tenants who are older or who have a disability, a valid travel pass issued for free public transport with a photograph.

3.5 Housing Solutions will also publicise outcomes from fraud investigations and related actions to deter future tenancy fraud. Information will be anonymised where appropriate.

3.6 As part of a tenancy fraud awareness campaign Housing Solutions may consider suspending investigations during an 'amnesty period', whereby for a limited time tenancy fraudsters can return their keys without further action being taken. The decision taken to grant an amnesty period will be approved by the Executive and will require support from the relevant Local Authority.

3.7 We will carry our regular tenancy audits to ensure we pro-actively identify, investigate and take action against any resident suspected of committing housing fraud.

Identifying Fraud

3.8 Common areas of fraudulent activity are:

- Fraudulent transfer applications, including mutual exchanges and claims for succession.
- Sub-letting.
- Fraudulent right to buy and right to acquire applications.

3.9 All Housing Solutions staff have a responsibility to detect, and report suspected tenancy fraud. Housing Officers will carry out all preliminary investigations across the general needs stock, including sheltered and supported housing.

3.10 The most common indicators of fraud can be

- The inability to gain access to a property, including to carry out annual gas or electrical safety checks.
- Long periods without contact from a resident such as a history of no repairs being reported at a property.
- Large amounts of credit accumulating on a rent account.
- Anti-social behaviour reported.
- Regular vandalism to communal door entry systems.
- Council tax arrears.
- A history of ongoing rent arrears.

- Cuckooing of a home (the practice of taking over the home of a vulnerable person in order to establish a base for illegal drug dealing, typically as part of a county lines operation)
- Regular reports from neighbours about tenant absence or other persons using the property.

3.11 Other methods that will be used to check or identify instances of fraud include:

- Contact Centre staff cross referencing callers with occupancy details on Open Housing, reporting any concerns to the relevant Housing Officer.
- Regular estate walkabouts, where the Housing Officers meet and engage with residents.
- Targeted tenancy audits for those customers with whom there has been no contact within the last 12 months
- Tenancy follow up visits at 6 weeks, 3 months and 9 months after the tenancy start date, to check that those authorised to occupy are residing at the property.
- Easy access to make reports (such as anonymously) to enable the reporting of fraud, including straplines on annual rent statements and other mailings to tenants.
- Feedback from operatives, tradespeople and contractors regarding residents at properties, as they are also required to report anything suspicious or of concern.
- In instances of mutual exchanges, a formal assignment of properties will be undertaken in person with both parties. Identity details will be confirmed by the Housing Officer and a follow up visit within 6 weeks of the exchange taking place to confirm that the correct persons are in occupation.
- For succession requests, identity details will be requested and proof that the person has resided at the property for the required period of time.

Responses to Suspected Fraud

3.12 Where it is suspected that there may be tenancy fraud, the Housing Officer will carry out a preliminary investigation. This may include:

- Attempts to contact the tenant using visits, leaving calling cards, telephone calls, texts and emails.
- Visiting the property with operatives and/or contractors for example, when undergoing a gas or electrical safety check or other maintenance visits.
- Checking records, such as repairs reported.
- Using previously collected photo ID when carrying out tenancy visits.
- Visits to neighbours to gather information.
- Lawfully checking social media accounts.
- Running lawful checks on Insight (a fraud prevention profiling system enabling staff to check and verify the occupants in the property).
- Working with other agencies to investigate fraud where it involves a Housing Solutions tenant or tenants.

3.13 Depending on the outcome of the preliminary investigation, if there is considered to be a strong likelihood that fraud is being committed the Housing Officer may refer the case to the relevant Local Authority fraud investigation team.

3.14 Following investigation, the Housing Officer will take action in line with recommendations from the investigating officer [appointed by the Local Authority fraud investigation team] as outlined in Appendix A *'Actions to take in instances of Tenancy Fraud'.*

3.15 In deciding on appropriate action to take, the Housing Officer seek direction from the Housing Team Leader.

Maintaining accurate records

3.16 Throughout the process of identifying, investigating and taking actions against fraud, comprehensive notes will be kept using the CRM system. All entries must be categorised on the system as 'Tenancy Fraud'.

3.17 Any staff member involved with any part of the process is responsible for making a record of discussions, actions, referrals etc using CRM.

3.18 All relevant documents, correspondence must be scanned in the relevant Documotive house file.

3.19 A central record of all potential tenancy fraud cases and the outcome of investigations will be maintained by the Housing Team Leader. Any evidence gathered will be used to inform the tenancy audit programme for the following year and shape customer-focused initiatives, such as 'Report your Neighbour' schemes.

3.20 All records will be kept in accordance with data protection law , as outlined in section 12 of this policy.

4. Legislation

- Housing Solutions will comply with the legislation and guidance set out on page 1 of this policy. We will also keep up to date with any changes in legislation, guidance, and best practice.

5. Consumer Standards

- By publishing and adhering to this policy, Housing Solutions is upholding the requirements set out in the Consumer Standards published by the Regulator of Social Housing under the Social Housing Act 2023 The Tenant standard will be formalised in April 2024 requiring that registered providers shall let their homes in a fair, transparent and efficient way. They shall take into account the housing needs and aspirations of tenants and potential tenants. They shall demonstrate how their lettings:
- (a) make the best use of available housing
- (b) are compatible with the purpose of the housing
- (c) contribute to local authorities' strategic housing function and sustainable communities

6. Equality and Diversity

- Housing Solutions recognises the needs of a diverse population and always acts within the scope of its own Equality, Diversity & Inclusion Strategy and Policy, the Human Rights Act 1998, and Equalities Act 2010 so that we treat all current and prospective tenants fairly and equally in making decisions under this policy. Housing Solutions collaborates closely

with its partners to ensure it clearly understands its resident community with clear regularly updated service user profiles. Housing Solutions will record, analyse, and monitor information on ethnicity, vulnerability, and disability to support the fair application of this policy.

7. Confidentiality

7.1 Under the Data Protection Act 2018 and UK General Data Protection Regulation (UKGDPR), all personal and sensitive information, however received, is treated as confidential. This includes:

- Anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff, or board member.
- Sensitive organisational information.

7.2 Housing Solutions employees will only involve other agencies and share information allowed either by statute or by an agreed Information Sharing Protocol relevant to this policy.

8. Review

8.1 We will usually review this policy every three years, or more often in response to changes in legislation, regulatory guidance, good practice, or changes in other relevant Housing Solutions' policy.

Appendix A

Remedies available to deal with tenancy fraud.

Legal Guidance:

The Prevention of Social Housing Fraud Act 2013: The Prevention of Social Housing Fraud Act 2013 makes it a criminal offence for tenants to sub let or part with possession of their home.

The penalties for committing social housing fraud if convicted range from a £5000 fine up to 2 years imprisonment with a fine of £5000.

The Act gives the power to prosecute for this fence to local authorities. Local Authorities may prosecute on behalf of Housing Solutions.

There is no obligation to bring criminal prosecutions in cases of social housing fraud and Housing Solutions may decide that recovering the property is the priority either through surrender or court order possession.

The Act also includes the following powers for Housing providers:

- Restitutionary payments: The Court can award payment to the association in the form of an unlawful profit order. The award can be made by either the civil or criminal court. The order can be issued from any profit gained by the tenant from subletting the property.
- Security of Tenure: The act amends the Housing Act 1988 to bring about disparity between assured and secure tenants in terms of security of tenure. If a tenant parted with possession of their property or sublets the whole of their property, they will lose their assured status and security of tenure. This cannot be regained by returning to the property. As a consequence, the tenancy can be ended by a notice to quit.
- Data sharing and investigations: Associated with the Act are powers for local authorities to access information about an individual including their bank account, data from utility companies and telecommunication companies to detect tenancy fraud.

The Fraud Act 2006: Wilfully misrepresenting circumstances or deliberately misleading someone in order to gain from that misrepresentation may also be a criminal offence within the meaning of the Fraud Act 2006. We may involve the Police and the appropriate local authority to investigate and bring about criminal proceedings against an individual(s) where satisfied that there appears to have been criminal intent.

Best practice guidance:

- CIH ‘New approaches in Tackling Tenancy Fraud’
- CIH tenancy Fraud Page
- Tenancy Fraud

Forum webpage Council

fraud:

As well as Council tax fraud, business rates fraud, blue badge fraud, grant fraud and other related frauds, local authorities will investigate instances of Housing fraud. Examples include cases where:

- A housing association property that has been sub-let by the occupant who no longer lives there but is still the tenant.
- Someone who makes a false application for a council property.
- Tenants who do not use their property as a main home (they may have moved in with relatives or be abroad for extensive periods of time).

How to report council fraud:

This can be done by completing a fraud referral form, via an online report on the Local Authority website or via a hotline number.

Reporters have the right to remain anonymous and that information provided will be treated in the strictest confidence.

Benefit fraud:

Please note that Local Authorities no longer investigate benefit fraud. This is now the responsibility of the Department of Work and Pensions.

If someone claims Housing Benefit and/or Social Security benefits where they have no right to entitlement, they are committing benefit fraud. Typical examples of benefit fraud are:

- people, who work, but don't declare this when they submit their claim.
- people, who claim as a single person, but actually live with a partner.
- people, who claim from an address, but do not live there.
- people who do not tell the Council the full amount of income, savings or capital they have when they claim benefit.
- people who for any reason do not have any right to claim Housing Benefit.

How to report benefit fraud

Telephone: call the National Benefit Fraud Hotline on 0800 854 440. Your call is free and confidential. You do not have to give your name or address. Lines are open Monday to Friday - 8am to 6pm.
If you have speech or hearing problems, you can use a text phone service on 0800 328 0512 or Welsh speakers can call on 0800 678 3722.

Online: www.gov.uk/report-benefit-fraud

By post: NBFH, PO Box 224, Preston PR1 1GP

Appendix A

Other support agencies:

- **National Domestic Violence Helpline** A 24-hour helpline run in partnership between Refuge and Women's Aid Tel: 0808 2000 247 Further / specialists support:
- **Women's Aid** Provides advice and support and finds refuge spaces across the UK, and a national 24-hour helpline. www.womensaid.org.uk
- **Refuge** Finds refuge space and/or offers advice and support. Includes refuges for Black and Asian women and women with learning disabilities. www.refuge.org.uk
- **Rape Crisis Line** Some boroughs have a Rape Crisis Line. Individual contact numbers can be found on the central website: Tel: 0808 802 9999 www.rapecrisis.org.uk
- **Samaritans** Provides 24-hour confidential emotional support Tel: 08457 90 90 90
- **The Men's Advice Line,** for male domestic abuse survivors – 0808 801 0327
- **National LGBT+ Domestic Abuse Helpline** – 0800 999 5428
- **GALOP** The National LGBT domestic violence helpline: 020 7704 2040
- **Asian Women's Outreach Worker** 01494 446 366
- **Victim Support** 0808 168 9111
- **Female Genital Mutilation Helpline** (operating 24/7 and staffed by specially trained child protection councillors who can offer advice, information, and assistance to members of the public and professionals): 0800 028 2550.
- **Deafhope** UK sign language service to help deaf women and children who are victims of domestic abuse 020 3947 2600.
- **National Stalking Helpline:** www.stalkinghelpline.org Tel. 0808 802 0300
- **Karma Nirvana – Charity for victims and survivors of Honour based abuse in the UK** https://karmanirvana.org.uk/ 0800 5999 247.
- **Man Kind -** http://mankind.org.uk/help-for-victims/ Tel: 01823 334244
- **HESTIA -** https://www.hestia.org/domestic-abuse
- **Child Line -** https://www.childline.org.uk/ Tel: 0800 1111
- **Forced Marriage Unit -** https://www.gov.uk/stop-forced-marriage Tel: 02070080151
- **Safe Spaces -** https://uksaysnomore.org/safespaces/

- **National Stalking Helpline -** https://www.suzylamplugh.org/pages/category/national-stalking-helpline Tel: 0808 802 0300