



UTTLESFORD DISTRICT COUNCIL

TENANCY FRAUD POLICY

Introduction

With the high demand for social housing it is important that the Uttlesford District Council manages the risks of tenancy fraud effectively. The Council is committed to ensuring that our properties and those of our housing association partners are allocated to those in the most housing need and are occupied by those to whom they have been allocated.

Those who commit tenancy fraud are depriving people in genuine housing need from accessing social housing. This is unacceptable.

This policy details how the Council is tackling fraud by ensuring that the Council's housing stock is properly managed and that tenancy fraud is prevented and appropriately dealt with when detected.

Legislation

Following the implementation of the Prevention of Social Housing Fraud Act 2013, both local authorities and other registered social landlords have been given more powers to investigate social tenancy fraud. The Act creates new criminal offences of subletting, carrying a maximum sentence of 2 years' imprisonment and/or an unlimited fine, and allows the recovery of any profits made by tenants who sublet their properties.

The Council will make appropriate use of these powers, as well as utilising its ability to seek possession through the Courts under the Housing Act, and will take appropriate action when other criminal offences are committed, for example under the Theft Act 1968 and the Fraud Act 2006.

Proceedings may be brought under any relevant legislation as part of the Council's responsibility to tackle social housing tenancy fraud.

A non-exhaustive list of other legislation that can be used to combat tenancy fraud is listed below:-

- Law of Property Act 1925
- Criminal Evidence Act 1984
- Housing Act 1985 as amended
- Housing Act 1988 as amended
- Criminal Procedure and Investigations Act 1996
- Article 8, Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- General Data Protection Regulations and the Data Protection Act 2018

Definition of Tenancy Fraud

Tenancy Fraud can occur in a variety of circumstances and at any stage during the lifetime of a tenancy. The following list is not exhaustive but includes the main types of tenancy fraud:-

- Fraudulently obtaining a social housing tenancy by misrepresentation as to identity or personal circumstances.
- Withholding information or making a false statement when applying for a social housing tenancy
- Unlawful subletting, including subletting the whole property or multiple sublets within one property while ceasing to occupy the same.
- Non occupation by the tenant as their sole or principal home, including tenancy abandonment.
- Falsely claimed succession where a tenant dies and someone who is not eligible to succeed to the tenancy retains the property
- Unauthorised assignment of the tenancy such as an unauthorised mutual exchange or transfer of tenancy without the landlord's permission
- "Key selling" - where the tenant leaves the property and passes on the keys in return for a one off lump sum payment or favour
- Providing misleading information on identity or personal circumstances when purchasing a socially rented home under the Right to Buy

Impacts of Tenancy Fraud

Tenancy fraud can have the following harmful effects:-

- Preventing applicants in genuine need from accessing social housing, meaning they may spend longer in overcrowded or temporary accommodation
- Properties which are used fraudulently are more likely to be neglected and experience disrepair which can incur a greater level of cost for the Council to remedy when issues are identified
- Properties which are used fraudulently may be more likely to be associated with other illegal activity or anti-social behaviour
- Where a property is unlawfully sub-let, the sub-tenant may be unaware of their situation and find themselves at risk of financial losses, eviction and/or homelessness

- The Council can incur substantial and potentially irretrievable financial losses if a fraudulent Right to Buy application is not identified, in addition to the loss of a property which could have been allocated to an applicant in genuine need

Prevention of Tenancy Fraud

The Council's focus is on preventing fraud occurring and the measures that the Council takes to prevent social housing tenancy fraud includes the following:-

- Using a range of publicity methods to raise awareness of tenancy fraud amongst customers, the public and partner agencies. All applicants and tenants will be made aware that tenancy fraud is regarded extremely seriously, will not be tolerated and will be dealt with swiftly and severely. This will include warning notices placed within the standard application forms to ensure applicants are aware of the implications in providing false or misleading information
- The use of publicity as a deterrent will include articles periodically placed in the Tenant's Newsletter and on the Council's website. This will include publicity around successful prosecutions made by the Council
- Verifying information provided by the applicant on applying for social housing, or making a homeless application, or when signing up to a new tenancy. This will include checking forms of identification provided by the applicant, their tenancy history and their household circumstances
- New tenancy visits within 6 weeks of the tenancy commencing to check all correct persons have taken up occupancy
- Regular Tenancy Inspections to verify who is still in occupation
- Encourage tenants and members of the public to report suspected cases of tenancy fraud to the Council. A confidential webpage to report fraud is available
- Housing Officers will act upon reports of tenancy fraud and investigate cases using a variety of means, including ID verification, cross-reference checks and tenancy visits. Investigations will be conducted in accordance with relevant legislation to ensure that evidence gathered is admissible and collected lawfully
- Work in partnership with other service areas of the Council to cross-reference information in order to detect fraud.
- Provide data to Pan Essex data matching system. The Council also provides data for the National Fraud Initiative (NFI) which is an exercise that matches electronic data within and between public and private sector bodies to prevent and detect fraud.

Enforcement/Action

The Council's Housing Management and Legal Teams work together when social housing fraud is detected and take the most appropriate action considering the type and extent of the fraud.

In some cases it may be considered appropriate to allow the tenant to return the keys of the property with no need for further court action.

For tenants who do not surrender the property the Housing Team will instruct the Legal Team to instigate civil action through the courts serving Notice to Quit, Notice of Possession Proceedings or Notice Seeking Possession, as appropriate.

Where the Council considers that criminal prosecution should be pursued legal proceedings will be instigated by the Council's Legal Team.

Supporting sub-tenants

If a sub-tenant is discovered during an investigation the Council will support the household by offering advice and assistance which may be in the form of completing homeless application if applicable and applying to the Council's Choice Based Lettings Scheme. They will be advised of the legal process the Council will take in gaining possession of the property so that they are aware of the time scale involved for them to vacate the property.

Data sharing

The Council shares 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 General Data Protection Regulations (GDPR) and the Data Protection Act (DPA) 2018. The Council's GDPR privacy notices can be found on the Council's website at www.uttlesford.gov.uk

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

Equality and Diversity

The Tenancy Fraud Policy will be operated strictly in accordance with Council policy irrespective of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership.

Review and Consolation

This policy will be reviewed within 24 months of implementation and prior to implementation will be consulted upon with the Council's Tenants Forum and Housing Board.

Publicity

A copy of this policy will be placed on the Council website and be available in print on request. It will be publicised to existing tenants via the Tenant's Newsletter.