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**Tenancy Fraud Policy**

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## **1. Introduction and Purpose**

- 1.1. The purpose of this policy is to establish a framework for identifying and addressing tenancy fraud within our stock, support the identification of tenancy fraud by raising awareness and prevent the misuse of housing stock by implementing robust, effective and timely processes for addressing tenancy fraud.
- 1.2. This policy applies to customers of all tenures living in a home owned or managed by us. This includes general needs, supported, emerald schemes and shared ownership and properties of all rent tenures (e.g. social rent, affordable rent and intermediate market rent).
- 1.3. We are committed to preventing fraud and is committed to preventing fraud and corruption and developing an anti-fraud culture, where everyone acts with honesty and integrity and staff feel able to raise concerns, in good faith, without the fear of repercussions.

## **2. What is tenancy fraud**

2.1. We define the below issues as tenancy fraud:

### **2.2. Obtaining a tenancy by deception**

Residents signing up for our properties will sign a clear statement, confirming that the information given is true and correct to the best of their knowledge. Further, any false information given or failure to supply any information requested may result in the loss of any home offered, and details may be shared for the prevention and detection of crime, including fraud.

Obtaining a tenancy by giving false information can include:

- Providing false information as part of a homeless application.
- Providing false information as part of an application to join the housing register.
- Failing to update personal information following a change in circumstances.
- Not disclosing information which may prevent a person from being offered a property.
- Using false documents such as forged identification or claiming another's identity.

### **2.3. Unauthorised subletting**

The Prevention of Social Housing Fraud Act 2013 [Section 2] makes it an offence if a customer either sub-lets or parts with possession of the property (or part of it without our consent) and knows this is in breach of the tenancy agreement. The more serious offence is where the residents not only know they are in breach of their tenancy agreement but does so dishonestly. This is irrespective of whether the resident makes a profit or not.

A resident can sublet part of the property as long as et West Kent's prior written permission is obtained, and they do not overcrowd the property.

A resident must not sublet all the property (whether for profit or not), so that they no longer live there. This also includes through Airbnb, estate agents or other third-party agencies

#### **2.4. Non-occupation and absence**

Our tenancy agreements state: *"You must move into the property at the start of the tenancy and only use it as your main or only home."*

Fraud takes place where the resident is no longer using the property as their only or principal home.

Where non-occupation is suspected, consideration must be taken to ensure the lawful customer has no intention to return to the property. Long term absence refers to a resident's absence from the property of over 28 days and is permitted under certain circumstances for specified periods of time, with prior written agreement from us. For example, a prolonged stay in hospital.

A resident can request that a relation or friend takes care of the property in their absence, but this 'caretaking' needs to be agreed in advance in writing by us.

In this instance, the absent resident would still be responsible for all conditions of tenancy and action may be taken in the event of any breach.

#### **2.5. Key selling**

Key selling involves the customer giving their keys to another person in return for financial or other gain without informing us. Once the keys have been exchanged, the person left residing in the property would be classed as an unauthorised occupier.

#### **2.6. False succession**

Succession can take place automatically in law where a resident dies, if the qualifying successor remains in the property. Succession is considered fraudulent where:

- The resident dies and the remaining occupier does not automatically qualify for succession or inform us; and The remaining occupier knowingly gives us misleading information to incite them to grant the succession where they wouldn't ordinarily do so.

See our succession and assignment policy for more information. Care will be taken when dealing with such cases due to the potentially sensitive nature of the situation.

#### **2.7. Unauthorised mutual exchange and assignment**

An assignment is considered fraudulent where:

- One or more of our residents assign their tenancies by way of 'swapping' properties by moving without obtaining written consent.

- The resident 'assigns' their tenancy to a partner, friend or family member without obtaining written consent from us.

For further information see our mutual exchange policy.

## **2.8. False Right to Buy or Right to Acquire application.**

A resident makes an application to purchase their property and does so giving false information or knowingly incites us to approve the application where they wouldn't ordinarily qualify.

## **2.9 Shared ownership application**

An application is made to purchase a share of a shared ownership home, where there is a strict eligibility criteria. This includes misrepresentation to enable a shared ownership purchase with the intention of subletting immediately upon completion.

## **3. Reporting tenancy fraud**

- 3.1. Residents are encouraged to report suspicions of tenancy fraud to us by calling 01732 749400, emailing [help@wkha.org.uk](mailto:help@wkha.org.uk) or via online reporting form on the website [www.westkent.org](http://www.westkent.org).
- 3.2. When you report tenancy fraud, your details will be kept in the strictest of confidence. Anonymous reports are accepted. We are committed to investigating all forms of tenancy fraud and will take action where fraud is identified.

## **4. How we will prevent tenancy fraud**

4.1. To ensure that we proactively prevent tenancy fraud, we will:

- Conduct random tenancy audits, which may involve unannounced home visits and data comparison with other organisations.
- Collect photo identification from residents when they move in and may request it periodically.
- Promptly investigate allegations of suspected tenancy fraud.
- Ensure relevant staff are appropriately trained to recognise and investigate signs of tenancy fraud.
- Work with partner and external organisations to compare data and help detect and prevent fraud.
- Work with the local authorities on the use of special powers under sections 2 and 4 of the Prevention of Social Housing Fraud Act (PoSHFA) to carry out interviews under caution and obtain information from other organisations for example. banks and utility providers.
- Support vulnerable victims of tenancy fraud and signpost them to appropriate agencies.
- Publicise tenancy fraud in communications with residents and encourage the reporting of tenancy fraud.
- Support complainants if there is a need to go to court.

- Verify the identity and eligibility of all prospective customers, including periodic monitoring.

## **5. Enforcement**

Where tenancy fraud is proven, we will:

- Review evidence and take legal advice if needed before taking civil action.
- Serve relevant notices to terminate the tenancy if it is considered that, on the balance of probabilities, tenancy fraud has occurred.
- Use powers under the Prevention of Social Housing Fraud Act 2013 and the relevant Housing Acts to recover the property and seek legal costs.
- Consider prosecution for recovery of profit or damages.

## **6. Data Sharing and Matching**

We share relevant information with third parties to prevent and investigate tenancy fraud. We comply with GDPR and the Data Protection Act 2018. Privacy notices are available at [www.westkent.org.uk/privacy](http://www.westkent.org.uk/privacy).

We participate in data matching exercises with the National Fraud Initiative and other relevant parties to detect possible fraud.

We are a member of the National Anti-Fraud Network (NAFN). NAFN is a public sector organisation that supports investigations of tenancy fraud. Membership of NAFN allows us to obtain information such as credit reference reports to assist in investigating allegations of tenancy fraud.

We may also share information to meet legal obligations, in connection with legal proceedings or when instructed to do so by a court order, or to protect the vital interests of an individual.

## **7. Equality and Diversity**

We aim to create a prosperous and inclusive society in Kent, following the Equality Act 2010. We do not tolerate discrimination based on protected characteristics and is committed to:

- Eliminating unlawful discrimination, harassment, and victimisation
- Promoting equality of opportunity
- Fostering good relations between people

An Equality Impact Assessment has been completed for this policy.

## **8. Roles and responsibilities**

**Executive director of finance** has overall responsibility for fraud, including reporting to the Board, Regulator for Social Housing and other relevant stakeholders. They also ensure we comply with our legal and ethical obligations, and that all those under our control comply with it.

**Executive director of housing and communities** has overall responsibility for ensuring that West Kent tenancies are compliant with relevant laws and regulation.

**Head of governance and risk** is responsible for the day-to-day prevention and detection of fraud at West Kent, including the effective operation of this policy.

**Community safety manager** holds the operational responsibility for this procedure, monitoring reports of tenancy fraud, reporting to the head of governance and risk.

**Investigation officer (IO)** is the person who is investigating the allegation of tenancy fraud. This could be a community safety officer, neighbourhood housing officer, scheme manager

All members of staff have a responsibility to ensure that we prevent and tackle tenancy fraud. Neighbourhood housing officers and community safety officers are responsible for investigating and acting on information which gives rise to a suspicion of tenancy fraud. Investigating staff will operate in accordance with normal procedures (for example where appropriate the investigating officer will be supported by a colleague for meetings with residents).

All our residents have a responsibility to ensure that they occupy their property as per the terms of their tenancy agreement.

## **9. Benefit fraud**

If during the course of the investigation the investigating officer, suspects that the resident is committing benefit fraud, for example receiving the Housing Element of Universal Credit or Housing Benefit and not living at the property, they must report their suspicions to the relevant local authority and/or the Nation Benefit Fraud Hotline on 0800 854 440 or via their website [www.gov.uk/report-benefit-fraud](http://www.gov.uk/report-benefit-fraud)

## **10. Regulation**

This policy supports our compliance with the following suite of legislation and regulation:

- Regulator of Social Housing Consumer Standards, in particular the Tenancy Standard 2.1 Allocations and Lettings section 2.1.4 which states that registered providers of social housing must take action to prevent and tackle tenancy fraud.
- Prevention of Social Housing Fraud Act 2013
- The Fraud Act 2006
- Forgery and Counterfeiting Act 1981
- Immigration Act 2014 and 2016
- Housing Act 1996
- Regulation of Social Housing Governance and Viability Standard and Tenancy Standard.
- Housing Act 1985 as amended.

- Housing Act 1988 as amended.
- Data Protection Act 2018
- General Data Protection Regulation (GDPR)
- Human Rights Act 1988 Article 8

## **11. Reporting**

All allegations of tenancy fraud will be reported.

All reports of proven tenancy fraud will be logged on the Fraud Register and reported to the Audit and Risk Committee and annually to the Regulator for Social Housing.

We will report on the number of allegations of tenancy fraud on six-month basis and report how many properties are recovered to our executive team.

## **12. Consultation**

The community safety manager and the head of governance and risk have prepared this policy with input from colleagues. As part of the development of this policy a review by the resident involvement panel has been undertaken. As part of this residents shared their feedback on its content via a focus group. The outputs of that review were considered to shape the policy before publication.

## **13. Communication**

This policy will be published on our intranet and website and will be communicated to all staff as a new policy.

It will be issued to all new staff as part of their induction, with a particular focus for staff in resident facing roles.

We may publicise action taken to tackle tenancy fraud in our external communications, such as our website, social media platforms, and neighbourhood news

## **14. Review**

This policy will be reviewed every three years or when there is a regulatory/legislative change requiring it to be updated.