

Tenancy Fraud Policy

Stevenage Borough Council

2025 - 2028

Date created	August 2024
Approved by	Key Officer Decision – February 2025
Owner	Assistant Director Housing and Neighbourhoods
Version	2
Author	Amanda Rogers Residents Services Manager
Business Unit and Team	Housing Management, Housing and Neighbourhoods.
Policy Review Date	December 2027
Equality Impact Assessment Date	August 2024

For translations, braille or large print versions of this document please email equalities@stevenage.gov.uk.

Contents

1. Purpose.....	3
2. Scope	3
3. Legal Framework.....	4
4. Equalities	5
5. Data Protection	5
6. Policy	6
7. Consultation	10
8. Monitoring and Review	11
9. Reference and Resources.....	11
10. Abbreviations and Definitions	11
11. Appendices	11
12. Version History	11

1. Purpose

1.1 Purpose of the Tenancy Fraud Policy

Social housing is in short supply and Stevenage Borough Council (the Council) is committed to making sure that our homes are lived in by those who need them most and by those they are intended for.

This policy sets out how the Council works to prevent and tackle tenancy fraud and ensure that our homes are available to those who need them.

The term 'fraud' can be broadly defined as the deliberate use of deception or dishonesty to disadvantage or cause loss (usually financial) to the Council.

One of the objectives of this policy is to ensure we provide a consistent and proportionate response to all cases of tenancy fraud.

1.2 The aim of the Tenancy Fraud Policy

This policy aims to set out:

- Our commitments to tackling tenancy fraud.
- How we'll detect and prevent tenancy fraud.
- What actions we'll take against those who commit tenancy fraud.
- How we'll use internal and external data.
- What enforcement actions we'll take.

2. Scope

This policy sets out the approach that the Council will take in relation to tenancy fraud and applies to all tenants of Stevenage Borough Council as well as any other third parties.

2.1 Role and Responsibilities

- The Head of Housing - has overall responsibility for the implementation of this policy and its periodic review.
- Resident Services Manager – has responsibility for the management of the Residents & Estates Team in identifying and dealing with tenancy fraud appropriately and proportionately and overseeing compliance with the policy.

- Senior Housing Officer - Responsible for ensuring compliance with this policy, the management of the team regarding the prevention, detection and carrying out any tasks necessary in relation to dealing with tenancy fraud.
- Housing Officers - Responsible for the operational functions in relation to dealing with tenancy fraud and for reporting all cases to the shared Anti-Fraud Service (SAFS).
- All Council Officers – responsible for reporting any signs of housing fraud to the Resident and Estates team.
- Customer Services team - Responsible for receiving and dealing with general enquiries received from tenants and the general public in relation to tenancy fraud and passing these to the Housing Officers.

3. Legal Framework

3.1 Relevant Legislation

The following legislation relates to the Tenancy Fraud Policy, and we are committed to applying the terms within this document.

- Prevention of Social Housing Fraud Act 2013
- Social Housing (Regulation) Act 2023
- Housing Act 1985
- Housing Act 1988
- Theft Act 1968
- Proceeds of Crime Act 2002
- Data Protection Act 2018
- Fraud Act 2006
- Bribery Act 2010
- Criminal Procedures Investigation Act 1996
- Public Interest Disclosure Act 1998
- Police and Criminal Evidence Act 1984

The Prevention of Social Housing Fraud Act 2013 (PoSHFA) made the subletting of the whole of a social rented dwelling a criminal offence and introduced two new criminal offences:

- Where the tenant, is in breach of an expressed or implied term of the tenancy, sublets or parts with possession of the whole of the property, or part of it without written consent, ceases to occupy the property as their only or principal home and knows that this is a breach of their tenancy. A person convicted of this offence can be fined an unlimited amount.

- Where a tenant dishonestly, and in breach of an express or implied term of the tenancy, sublets or parts with the possession of the whole of the property, or part of it without consent of the landlord, and ceases to occupy the property as their only or principal home. A person convicted of this offence can be imprisoned for up to two years and/or fined an unlimited amount.

PoSHFA enables local authorities the ability to prosecute in cases of unlawful subletting and provides the Court the authority to order the tenant to pay back any profit made from unlawful subletting; these are referred to as Unlawful Profit Orders. These are available in both criminal and civil proceedings.

The Fraud Act 2006 states that a person is guilty of fraud if they are in breach of a number of offences, including the following:

- Fraud by false representation.
- Fraud by failing to disclose information.
- Fraud by abuse of position.

A person who is found guilty of fraud is liable, on conviction to a maximum sentence of 10 years imprisonment and/or a fine.

4. Equalities

Under the Equality Act 2010 the Council has a legal duty to fulfil the requirements of the Public Sector Equality Duty (PSED). Through this duty, the council will carry out its functions in a way that:

- a) Removes discrimination, harassment, victimisation and any other conduct that is unlawful under the Equality Act 2010.
- b) Promotes equal opportunities between people who have a protected characteristic(s) and those who don't.
- c) Encourages good relations between people who have a protected characteristic(s) and those who don't.

Further information on the Council's fulfilment of the PSED is set out in the Equality, Diversity and Inclusion (EDI) Policy (2022) which is applicable to all employees of the Council, councillors and contractors or suppliers who provide services on behalf of the Council.

5. Data Protection

The Council regards respect for the privacy of individuals and the lawful and careful treatment of personal information as very important to its successful operations and to maintaining confidence between the Council and those with whom it carries out business. The Council will ensure that it treats personal information lawfully and proportionately as set out in the General Data Protection Regulation (GDPR) and Data Protection Act 2018.

The Council's principal aim is to ensure that all personal data processing carried out by the Council, or on its behalf, complies with the seven data protection principles and other key legislative requirements. For further information on the Council's approach to handling information please see [the Data Protection Act web page](#) at www.stevenage.gov.uk.

6. Policy

The Council is committed to ensuring our homes are occupied by those we have let them to and who are entitled to live in them. If we have evidence of tenancy fraud, we will take the most appropriate action considering the type and extent of fraud. This includes:

- Evicting those who are illegally occupying.
- Recovering any profits the tenant has made from subletting the home.
- Prosecuting perpetrators.

6.1 Definition of Tenancy Fraud

For the purpose of this policy the term 'tenancy fraud' refers to council-owned rented housing that is 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.

Examples of tenancy fraud include, but are not limited to:

- Fraudulently obtaining a social housing tenancy by misrepresentation and as to identity or circumstances or withholding information or making false statements when applying for social housing.
- 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 attempts to retain the property.
- Unauthorised assignment of the tenancy such as an unauthorised mutual exchange or transfer of tenancy without the landlord's permission.
- To offer, or receive, money to carry out a mutual exchange.
- "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 and not declaring interests in other property when purchasing a socially rented home under the 'Right to Buy'.

6.2 Impact of Tenancy Fraud

Tenancy fraud detrimentally affects the Council, tenants and sub-tenants and the consequences of fraudulently used properties includes:

- The property is more likely to be neglected and in a state of disrepair, leading to the Council incurring greater costs to rectify these issues.
- There is a greater likelihood that the property will be associated with anti-social behaviour and crime.
- The sub-tenant may be unaware of their situation, finding themselves at risk of financial losses, eviction and/or homelessness.
- The Council can incur significant and potentially irretrievable financial losses if a fraudulent 'Right to Buy' application is not identified. The loss of a property in this manner precludes it from being allocated to an applicant in genuine need.
- There is a risk to reputation for failing to investigate tenancy fraud as well as a cost burden of investigation and court proceedings.
- Applicants in genuine need are prevented from accessing social housing, leading to longer waiting times in overcrowded or temporary accommodation.

6.3 Our Commitments

The Council will investigate all forms of tenancy fraud reported to us by staff, residents, contractors and external agencies. Our commitments are to:

- Act promptly when investigating all allegations of suspected tenancy fraud.
- Train our staff to identify potential tenancy fraud.
- Keep complainants informed and their identity confidential.
- Support complainants and witnesses if we need to go to court.
- Work with SAFS and our partners to help detect and prevent tenancy fraud.
- Support vulnerable victims of tenancy fraud and signpost to appropriate agencies.

6.4 Prevention and Detection of Tenancy Fraud

Prevention is by far the most effective and cost-efficient way of managing the risks of fraud. The Council has put in place measures to prevent and deter tenancy fraud. Such measures include:

- 1) A declaration is signed to confirm that true and accurate information has been provided and we will seek to verify any information provided by tenants and prospective tenants and in the following circumstances if they have:
 - Completed a housing application form for access to social housing.
 - Made an application for the Right to Buy.
 - Requested to assign their tenancy.
 - Requested to succeed a tenancy.
 - Been party to a mutual exchange application.
 - Request for a change of circumstances, for example a name change, household changes, joint to sole and sole to joint tenancy requests.
- 2) We may cross reference the data we receive with external agencies, such as the National Anti-Fraud Network to ensure that the information provided is valid and authentic. We may also retain copies of identification provided at sign-up. 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.
- 3) In addition to scheduled and routine tenancy visits, the Council has committed to undertaking a rolling programme of tenancy audits; targeting areas where we believe fraud might be more prevalent, to verify the identities of tenants residing in those properties.
- 4) New tenancy visits are carried out approximately six to eight weeks after sign-up. The Housing Officer will complete a new tenancy form to check whether there are any outstanding repairs or tenancy related matters that need to be actioned. The Council also use this visit to ensure that tenants have moved in and that occupancy has been taken up by the same tenant(s) that completed the sign-up process.
- 5) Further routine visits by our staff and contractors throughout the course of normal activities, provide further opportunities to verify the identity of tenants against information already held.
- 6) When a tenancy assignment or mutual exchange has taken place a follow-up visit will be carried out approximately six to eight weeks afterwards. At this visit a tenancy Audit Form will be completed which will include photographic identification wherever possible.

- 7) The Council carry out comprehensive and evidence-based identity checks on all right to-buy applications, to ensure that the applicant details match the details we hold on the tenant(s). Data will be matched internally and externally (where necessary) using dates of birth, National Insurance numbers, photographic identification and proof of address to verify the applicant's identity. Where this data is not already held by the Council, we will seek to obtain proof of identity and update our records accordingly.
- 8) The Council is a partner of the Shared Anti-Fraud Services (SAFS). This partnership uses shared expertise, training and information to target fraudulent activity across the whole county and is a preventive tool to support the Council's commitment to identify and tackle tenancy fraud.

6.5 Investigation

Upon receipt of a report of suspected tenancy fraud, the Housing Officer will carry out initial enquiries and background checks on the tenant or applicant. This may involve:

- Visiting with contractors undertaking a gas safety inspection or other maintenance visits.
- Phone calls.
- Texts.
- E mails.
- Using previously collected photo ID when carrying out tenancy visits.
- Checking social media.
- Cross checking information with other agencies.
- Speaking to neighbours to gain information.
- Undertake covert surveillance in accordance with the Regulation of Investigatory Powers Act 2000.

If the Housing Officer feels there is a strong likelihood that fraud is being committed and have a viable case, they will refer the case to SAFS to begin an investigation.

A fully managed investigation into suspected tenancy fraud is likely to involve in-depth background checks (including credit referencing and address checks), further property visits to verify circumstances, interviews (under caution and in accordance with the Police and Criminal Evidence Act 1984, where appropriate) and surveillance.

Where evidence confirms that tenancy fraud has taken place and the tenant is unwilling to surrender the property, the Council will seek to take action, specifically to enforce the terms of the tenancy agreement which could ultimately lead to seeking possession of the property.

6.6 Legal Action

Where there is deemed to be enough evidence of tenancy fraud, under this policy, the Council has the power to prosecute for offences committed under a number of Acts including the Prevention of Social Housing Fraud Act 2013.

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 Council may pursue cases through the Courts to re-possess the property and where appropriate seek a criminal prosecution and ask the courts for offenders to repay any profit they have received from subletting their property.

6.7 Support

The Council will offer support (which may include referring onto external agencies) both to those who report issues of tenancy fraud and who may be fearful of any potential repercussions. Also, to those whose households may be living in the Council's property that has been sub-let to them without their prior knowledge and which may lead to them becoming homeless.

6.8 Confidentiality

Tenancy fraud can be reported anonymously on our website. The details of the person reporting the fraud will remain confidential unless the reporting person(s) advises the investigating officer that they are happy for their details to be shared.

Anonymous reports are often difficult to deal with, especially when information provided is limited. We will assess how serious the report is before we decide whether we can investigate the case. This may include speaking to partners such as Council Tax, to establish whether they have further information that we can act upon.

6.9 Working in Partnership

Partnership working is essential to the successful prevention and detection of tenancy fraud and we will work with a variety of agencies including statutory, non-statutory and voluntary sector organisations.

We will work with other social housing providers operating within Stevenage, especially where the Council has nomination rights to their properties, to take the same zero tolerance approach to tenancy fraud that we have adopted.

Recognising that some investigations cannot be managed by one agency alone, we will attend regular partnership meetings to enable the exchange of information between key community partners.

6.10 Disclosing Information

The Council will share (give and receive) 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 Data Protection Act and the General Data Protection Regulation. We will also share information:

- To meet our legal obligations.
- In connection with legal proceedings (or where we are instructed to do so by Court order).
- To protect the vital interests of an individual (in a life or death situation).

7. Consultation

This policy has been developed in consultation with key staff within SBC. Government has directed the legal perspective of the policy, but key related stakeholders have also influenced how the Council intends to implement and manage the policy. The Executive Housing Working Group and Cabinet champion this policy.

8. Monitoring and Review

This policy and the related procedure will be reviewed in full every two years or when there are changes in legislation to ensure they are still relevant and to incorporate change to legislation or best practise.

9. References and Resources

- Human Rights Act 1998
- Abandonment Procedure
- Whistleblowing Policy
- Allocations Policy
- Anti-Money Laundering Policy
- Succession Policy
- Assignment Policy
- Right to Buy Policy
- Corporate Anti-Fraud and Corruption Policy
- Anti-fraud plan for SBC 24/25

10. Abbreviations and Definitions

EDI	Equality, Diversity and Inclusion
GDPR	General Data Protection Regulation
PSED	Public Sector Equality Duty
SAFS	Shared Anti-Fraud Service

11. Appendices

Appendix – 1 Equality Impact Assessment

12. Version History

Date	Outlined Amendments	Author
June 2024	First version of this policy.	Amanda Rogers
July 2024	Legal sign off	Brenden Delaney
August 2024	KL amendments	Karen Long
September 2024	KC amendments	Kerry Clifford