



Lancaster City Council

Housing and Property: Council Housing

Tenancy Fraud Policy

December 2024

Prepared by:	DH
Effective from:	December 2024
Approved by:	JW
Review date:	December 2027
Revision number:	1.0

(01524) 582929



councilhousing@lancaster.gov.uk



1. Introduction and Policy Objectives

- 1.1. Lancaster City Council is dedicated to preventing the misuse of our housing stock and allocations system. We achieve this through robust, effective, and timely housing management processes.
- 1.2. This policy outlines our approach to handling suspected cases of tenancy fraud. We are committed to promptly and effectively addressing unlawful subletting and other forms of tenancy misuse to ensure our housing stock serves those with genuine housing needs.
- 1.3. The objective of this tenancy fraud policy is to provide a consistent and proportionate response to all instances of tenancy fraud.

2. Scope

- 2.1. This policy applies to all tenants of Lancaster City Council as well as any persons accessing the Housing Register (Ideal Choice Homes).

3. Legislation, Regulatory Standards & Approved Codes of Practice

- 3.1. **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 sublets or parts with possession of a property or ceases to occupy the property, knowing that it is a breach of tenancy. A person convicted of this offence can be fined an unlimited amount.
 - Where a tenant dishonestly and in breach of tenancy, sublets without consent and ceases to occupy the property as their only or principal home. A person convicted of the second offence can be imprisoned for up to two years and/or fined an unlimited amount.
- 3.2. This Act gives local authorities the ability to prosecute in cases of unlawful subletting and also gives the Court the authority to order the tenant to pay back any profit made from unlawful subletting.
- 3.3. **The Fraud Act 2006** states that a person is guilty of fraud if he is in breach of the following:
 - Fraud by false representation.
 - Fraud by failing to disclose information.
 - Fraud by abuse of position.
- 3.4. 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. Examples of Tenancy Fraud

- 4.1. In this policy the term 'tenancy fraud' refers to council-owned rented housing that is being used for a purpose other than it is intended.
- 4.2. Tenancy misuse does not refer to cases where tenant(s) have taken in a lodger or sublet part of their property with prior written consent from the council.
- 4.3. Examples of tenancy fraud include, but are not exhaustive:
 - **Fraudulently obtaining a social housing tenancy** by misrepresentation as to identity or personal circumstances or not declaring interests in other properties.
 - **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 and not declaring interests in other property when purchasing a socially rented home under the 'Right to Buy'.
- 4.4. The above definitions are for guidance only and are not exhaustive. It should be noted that incidents may include behaviour not perpetrated by the tenant, or prospective tenant, which still result in fraudulent use or acquisition of a social housing tenancy.

5. Preventing Tenancy Fraud

- 5.1. To mitigate the risk of tenancy fraud, we require prospective tenants to sign a declaration confirming the accuracy and truthfulness of the information they provide during the registration process. Additionally, we will verify information provided, such as:
 - Proof of identification for everyone included on your housing application (e.g. passport, birth certificate, driving licence).
 - Proof of current address (e.g. recent utility bill).
 - Proof that children named on the application reside with the applicant (e.g. child costs in Universal Credit).

- Proof of employment in the Lancaster district and the number of hours worked per week.
 - Proof of receipt of housing benefit or the housing element of Universal Credit.
 - Proof of household income.
 - Proof of settled or pre-settled status.
 - Proof of local connection (a local connection is defined as having close family e.g. parent, adult sibling or adult child who has resided in the Lancaster district for the previous five years).
 - Proof of a clear rent account in the applicant's current tenancy or confirmation of the amount of arrears (e.g. recent rent statement).
 - Proof that the applicant has been a resident in the Lancaster district continuously for the last 3 years (e.g. last 3 years utility bills).
- 5.2. We will also seek to verify truthful and accurate information in the following circumstances:
- When a request is made to assign, succeed, or mutually exchange a tenancy.
 - When an application for the 'Right to Buy' is made.
- 5.3. 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.

6. Detecting Tenancy Fraud

- 6.1. All new tenants will be contacted within six weeks of moving into their new home by a Housing Officer to ensure that they and their household have moved in, and that the property is occupied.
- 6.2. Tenancy audits will be conducted periodically (every 3 years) to ensure properties are maintained according to the terms of the tenancy agreement, to gather statistics on overcrowding and under-occupancy, and to identify any potential tenancy fraud.
- 6.2.1. Audits will be prioritized based on intelligence and will target properties where there has been limited or no contact.
- 6.3. We will run publicity campaigns across various media platforms to highlight the impact of tenancy fraud, raise awareness of its signs, and encourage reporting. We will also provide multiple channels for reporting tenancy fraud (email, online and by telephone).
- 6.4. We will ensure that staff are trained to detect and identify potential tenancy fraud and know how to report it, to enable staff to investigate and manage cases effectively through to legal action.
- 6.5. We will participate in the Cabinet Office's National Fraud Initiative (NFI), an exercise that electronically matches data from public and private sector bodies to prevent and detect fraud.

7. Enforcement and Action

- 7.1. We have a range of responses available to tackle tenancy fraud. The actions we will take to ensure effective enforcement of this policy are to:
- **Investigate All Cases:** Investigate 100% of tenancy fraud cases reported to us.
 - **Prompt Action:** Act promptly by commencing investigations within seven working days of receiving the tenancy fraud report. The type of investigation and action taken will depend on the type of tenancy fraud alleged.
 - **Case Management:** Log all reports and actions taken on our case management system.
 - **Covert Surveillance:** Undertake covert surveillance, which is a legitimate tool in fraud investigations, in accordance with our obligations under the Regulation of Investigatory Powers Act 2000.
 - **Interviews Under Caution:** Where a criminal act is suspected, trained officers may conduct interviews under caution in accordance with the Police and Criminal Evidence Act 1984.
 - **Closing Cases:** If no reasonable action can be taken to address a reported issue, we will inform the complainant and provide an explanation. We will close cases where there is no evidence to progress and no further action can reasonably be taken.
 - **Collaboration with Agencies:** Work with other agencies, including but not limited to NAFN Data and Intelligence Services, the Department of Work and Pensions (DWP), and the Police.
 - **Voluntary Surrender:** In some cases, it may be appropriate to allow the tenant to return the keys of the property without further court action.
 - **Legal Action:** For tenants who do not surrender the property, the Community Safety Team will commence legal action by issuing a Notice to Quit and/or a Notice Seeking Possession, as appropriate, and instruct our legal team to commence Possession Proceedings.
 - **Criminal Prosecutions:** Undertake criminal prosecutions under PoSHFA 2013 for properties found to be sublet without consent, where the tenant(s) cease to occupy the property as their only or principal home.
 - **Unlawful Profit Orders:** Apply for an Unlawful Profit Order (UPO) in cases where a tenant has been found to have made a profit from letting all or part of their home.

8. Supporting Sub-Tenants

- 8.1. 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 join the Housing Register.
- 8.2. 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.

9. Data Sharing

- 9.1. We share relevant information with third parties for the purposes of preventing, investigating, and tackling tenancy fraud.
- 9.2. 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:
<https://www.lancaster.gov.uk/housing/council-housing/ch-privacy>

10. Information Sharing

- 10.1. As a local authority, we have established Information Sharing Agreements that facilitate the exchange of information for the purposes of preventing and detecting crime, including tenancy fraud. We will comply with relevant legislation when sharing information.
- 10.2. When sharing information, we ensure that the transfer is done safely, stored appropriately, and not shared with a third party without permission unless there is a legal basis for doing so.
- 10.3. When we receive Freedom of Information or Subject Access Requests, we will handle these requests lawfully and in accordance with guidance from the Information Commissioner's Office.

11. Confidential Reporting

- 11.1. Tenancy fraud can be reported anonymously to the Council via:
 - Telephone: 01524 582929
 - Email: councilhousing@lancaster.gov.uk
- 11.2. 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.
- 11.3. 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.

12. Monitoring and Review

- 12.1. We will monitor tenancy fraud cases to ensure the correct application of the tenancy fraud policy. This will be undertaken via our Allocations Policy Review Group.
- 12.2. This policy will be reviewed every three years, or where there have been significant changes to regulation or legislation to warrant a further policy review.
- 12.3. The Policy may also be reviewed sooner where there is a need to address operational issues, or where best practice has evolved and there is a need to incorporate this.

13. Publicity

- 13.1. A copy of this policy will be placed on our website, it is also available in print on request. It will be publicised to existing tenants via the Tenant's Newsletter.
- 13.2. Awareness campaigns will be undertaken periodically to highlight the issue of tenancy fraud and encourage reporting. We may also publicise cases where we have successfully recovered a property where tenancy fraud was taking place.

