

**Policy Title:** Tenancy Fraud Policy

**Department:** Governance and Compliance

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| 1.  | <p><b>Policy statement</b></p>   |
|     | <p>This policy encompasses six complimentary strands that together form a holistic approach for tackling Tenancy Fraud within the One Housing’s varied business areas.</p> <p>This Policy acknowledges the One Housing’s aims and objectives in relation to both the legal and moral importance of combating the threat of Tenancy Fraud. The policy also outlines responsibilities relating to the legal framework we are required to work within in this area.</p> <p>Although the risk of Tenancy Fraud can never be completely removed, this policy seeks to set out an approach that prioritises prevention, however, should fraud be identified then robust measures will be employed to address and resolve the issue.</p>  |
| 2.  | <p><b>Objective(s)</b></p>   |
| 2.1 | <ul style="list-style-type: none"> <li>• To provide guidance to staff on the recommended and/or necessary actions to prevent, detect and address suspected Tenancy Fraud.</li> <li>• To provide a meaningful contribution in tackling the housing crisis. Due to the enormous demand for social housing, the pressure on Housing Associations is immense. Accordingly, it is important that the organisation take tenancy fraud seriously as a means to assist in addressing this situation.</li> <li>• To support a fair allocation process. One Housing aim to do this by implementing a range of measures to ensure we know who lives in the properties we manage and that those accessing this limited resource are those that are most in need.</li> <li>• To ensure that all suspected cases of Tenancy Fraud will be investigated (unless One Housing has reason to believe that there is no merit in the same) and where appropriate, enforcement action (including potential criminal prosecutions) may be taken or supported by One Housing, Local Authorities and/or other partnership working organisations.</li> <li>• To support other One Housing tenants, neighbours or members of the public who report allegations of Tenancy Fraud (where appropriate). For example, this may include providing support or reassurance to those persons providing witness evidence and/or innocent victims of Tenancy Fraud, as far as possible throughout the legal process, while ensuring the primary objective of reducing Tenancy Fraud is met.</li> </ul> |
| 3.  | <p><b>Key Policy Principles</b></p>  |
| 3.1 | <p>To prevent, detect, investigate, sanction and seek financial redress in cases of suspected Tenancy Fraud within One Housing’s housing stock.</p>  |
| 3.2 | <p>This policy is to ensure that (a) housing is made available to those assessed as being in genuine housing need; (b) those intending to commit fraud (whether knowingly or unknowingly) are prevented from doing so; and (c) those committing fraud are appropriately sanctioned under the criminal or civil law for their actions.</p>  |
| 4.  | <p><b>Related Documents and Polices</b></p>  |

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| 4.1 | <p>This policy should be considered in conjunction with the following documents;</p> <ul style="list-style-type: none"> <li>• Safeguarding Policy</li> <li>• Safeguarding Procedure</li> <li>• Safeguarding Strategy</li> <li>• Equality &amp; Diversity Policy</li> <li>• Domestic Abuse Policy</li> <li>• Domestic Abuse Procedure</li> <li>• Community Safety Policy</li> <li>• Community Safety Procedure</li> <li>• Unacceptable Customer Behaviour Policy</li> <li>• Unacceptable Customer Behaviour Procedure</li> <li>• Allocations Policy</li> <li>• Allocations Procedure</li> </ul>   |
| 4.2 | <p>Government legislation has an impact on how One Housing can implement its Tenancy Fraud policy. Listed below are the key Acts that have been acknowledged:</p> <ul style="list-style-type: none"> <li>• Prevention of Social Housing Fraud Act 2013</li> <li>• Fraud Act 2006</li> <li>• Housing Act 1985 as amended</li> <li>• Housing Act 1988 as amended</li> <li>• Data Protection Act 1998/GDPR</li> <li>• Law of Property Act 1925</li> </ul>   |
| 5.  | <p><b>Definitions</b></p>  |
| 5.1 | <p>For the purpose of this policy, Tenancy Fraud falls into four defined categories:</p> <ul style="list-style-type: none"> <li>• <b>Unlawful subletting</b> – where the legal tenant sublets their property or allows their property to be sublet without the knowledge or permission of their landlord.</li> <li>• <b>Unlawful tenancy succession</b>– where a tenant dies and someone who is not eligible tries to succeed the tenancy.</li> <li>• <b>Obtaining housing by deception</b> – this is where a person(s) obtains a tenancy via the local authority or housing association by providing false or misleading information in order to secure this accommodation. For example: not declaring ownership of private property, failure to disclose renting/occupation at another property and/or failing to be honest or accurate in respect of reported household composition.</li> <li>• <b>Key selling</b> – where the tenant, or someone acting on their behalf or with their acquiescence accepts payment to give a third party his or her keys.</li> </ul> <p>All of the above examples of Tenancy Fraud may prevent an eligible household in need of accommodation from being housed.</p> <p>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.</p> |

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| 6.  | <p><b>Scope</b></p>   |
| 6.1 | <p>This policy is intended for the use of the Community Safety team, resident management team, property management team and staff at One Housing. It is also available in summary form to residents, the Police, local authorities. It may be made available to other individuals, groups or organizations upon request, at the discretion of the Head of Community Safety and Safeguarding.</p>  |
| 7.  | <p><b>Policy</b></p>  |
| 7.1 | <p><b>Prevention</b></p> <p>One Housing will request photographic proof of identification from all prospective tenants and shared owners and carry out necessary checks prior to properties being allocated. Prospective tenants will be asked to supply One Housing with a passport sized photograph to keep on file.</p> <p>As part of a major tenancy fraud awareness campaign, One Housing may consider suspending investigations during an ‘amnesty’ period, whereby for a limited time, tenants or residents can return their property keys without further action being taken in relation to specific offences.</p> <p>One Housing will promote publicity campaigns extensively through the One Housing website and social media platforms. These will include success stories, case studies and updates of anti-fraud activity.</p>   |
| 7.2 | <p><b>Detection</b></p> <p>One Housing tenants and other residents not only have a unique opportunity to provide an essential source of referrals in relation to Tenancy Fraud, but are also have a direct interest in the proper allocation of One Housing’s financial and housing resources.</p> <p>One Housing maintains a Customer Contact Centre with staff available during office hours who are able to take reports of Tenancy Fraud from telephone callers and also via My One Housing and our online reporting form.</p> <p>One Housing Staff are encouraged to report allegations of suspected Tenancy Fraud by direct contact with the Community Safety Team in the first instance.</p> <p>One Housing may from time to time participate in data-matching exercises that are specifically designed to identify potential fraud cases.</p> <p>Each year One Housing may conduct scheduled tenancy audit visits on households to check that residents of our homes are the intended, lawful occupants. Due to the nature of this exercise the visits will usually be made without prior notice to tenants or occupants and may be made outside of normal working hours.</p> |
| 7.3 | <p><b>Investigation</b></p> <p>All investigations by One Housing in relation to reports of suspected Tenancy Fraud will be conducted in accordance with the Prevention of Social Housing Fraud Act 2013 and/or Fraud Act 2006.</p> <p>Where it is believed that sufficient evidence has been gathered in order to indicate a likely case of Tenancy Fraud, the person(s) will be contacted and will be asked to provide an explanation regarding the allegations and the use of their home. One Housing may, in its discretion, provide the suspected person(s) with such</p>   |

evidence as has been gathered, but will not do so in all cases, particularly where the anonymity of other individuals needs to be protected.

Any person(s) subject to Investigation may be asked to provide the following evidence if One Housing considers that it is appropriate and proportionate to the investigation;

- Proof of ID
- Proof of residence
- Proof of income
- Bank statements and/or utility bills
- GP registration

(This list is not exhaustive)

Having considered any evidence and/or explanations provided One Housing will decide whether to pursue, legal action to recover possession of the property, seek other relief including injunctions and/or recover any profits obtained through the alleged Tenancy Fraud. Where legal action is partially or wholly successful, court costs will be sought against the tenant, shared owner.

#### 7.4 **Partnership Working**

Subject to the provisions of the GDPR/Data Protection Act, where appropriate, One Housing will share information regarding our residents with local authorities and other agencies to detect, investigate and take legal action in cases of suspected Tenancy Fraud.

This includes sharing information and working with partners where service level agreements are in place and where it is proportionate, legal and appropriate to share information. Partners include;

- Local Authorities
- The Police
- Other Registered Social Landlords

(This list is not exhaustive)

#### 7.5 **Confidentiality**

Under the Data Protection Act 1998/GDPR and the Human Rights Act 1998, personal and sensitive organisational 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 committee member
- sensitive organisational information

Staff will ensure that they only involve other agencies and share information with the consent of the resident concerned, unless:

- It is for the purposes of investigating suspected Tenancy Fraud
- GDPR legal exemptions apply, negating the need for consent
- The information is necessary for the protection of children
- One Housing is required to by law (for example One Housing cannot withhold information if being questioned by the Police during a criminal investigation)

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|     | <p>Where a person has made a report of suspected Tenancy Fraud, they should be aware that One Housing will only be able to provide limited information on the investigation due to data protection considerations.</p>   |
| 7.6 | <p><b>Enforcement</b></p> <p>Where allegations of Tenancy Fraud have been corroborated, tenant(s) and/or other perpetrators will usually initially be asked to voluntarily surrender their tenancies and/or return any profit made unlawfully to One Housing, where appropriate.</p> <p>Failure to voluntarily surrender the property may result in legal action being instigated. One Housing reserve the right to take civil action as appropriate, either independently or in conjunction with external partners. One Housing reserve the right to take criminal action as appropriate, either independently or in conjunction with external partners.</p> <p>One Housing will seek financial redress wherever appropriate, which may include: out of court settlements, unlawful profit orders (UPOs), third party money orders and unjust enrichment claims (this list is not exhaustive). One Housing may seek to recover monies directly from the tenant(s), other perpetrators or via court orders.</p> <p>One Housing will seek to secure debts where appropriate against assets for example: Land Registry charges against private property, attachment of earnings or bankruptcy proceedings (this list is not exhaustive).</p> |
| 7.7 | <p><b>Recovered properties</b></p> <p>Properties recovered from fraudulent use will usually be either:</p> <ul style="list-style-type: none"><li>• Re-let in line with One Housing’s asset management approach and/or Allocations processes (in the case of general needs housing)</li><li>• Re-let in line with One Housing internal management processes (Intermediate rent/Market Rent properties)</li><li>• Resold in line with regulatory requirements, in the case of shared ownership housing or as set out in accordance with business needs for any other properties</li></ul>  |
| 7.8 | <p><b>Subtenants and unauthorised occupants</b></p> <p>One Housing’s approach to subtenants or unauthorised occupants, in terms of both advice and assistance offered to them, will be determined by the unique circumstances of each case.</p>  |
| 8   | <p><b>Accountability and Responsibility</b></p>  |
| 8.1 | <p>The Head of Community Safety and Safeguarding has overall responsibility for this policy.</p> <p>The Community Safety Team Manager is responsible for ensuring that Community Safety Team members are aware of this policy and use the same appropriately.</p>  |
| 8.2 | <p>Any action requiring the approval of a particular individual may be approved by a Group Director if necessary. In exceptional circumstances, approval may be granted retrospectively by a person of appropriate seniority.</p>  |
| 9.  | <p><b>Monitoring, Auditing and Controls</b></p>  |

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| 9.1  | Regular case audits will be carried out by the Community Safety Manager and Head of Community Safety and Safeguarding respectively.  |               |             |                           |
| 9.2  | The Head of Community Safety and Safeguarding will regularly provide reports in relation to caseload, progress, reporting trends and risk to the Executive Team, Audit and Risk Committee and Board. |               |             |                           |
| 10.  | <b>Version Control</b>   |               |             |                           |
| 10.1 | <b>No</b>  | <b>Author</b> | <b>Date</b> | <b>Summary of Changes</b> |