

TENANCY FRAUD POLICY



Sandwell
Metropolitan Borough Council

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Owner	Head of Tenancy and Estate Services		
Approved by			
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Purpose	This policy outlines the approach taken by Sandwell's Housing Service to prevent and address tenancy fraud, ensuring that our housing stock remains accessible to those who are most in need.		

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1. Purpose

- 1.1 This policy sets out the position of Sandwell Council with regard to tenancy fraud, outlining the procedures for its prevention, detection, reporting, and investigation.
- 1.2 In view of the limited availability of social housing, Sandwell Council is committed to ensuring that its housing stock is allocated to those who are most in need and to individuals for whom it is specifically intended. The Council acknowledges that the prevention and elimination of tenancy fraud is an essential measure in attaining this objective.

2. Scope

- 2.1 This policy applies to anyone who commits, or attempts to commit, fraud relating to the granting of a Sandwell Council tenancy.

3. What is Tenancy Fraud?

- 3.1 Sandwell Council considers tenancy fraud to encompass the following activities:
 - Subletting the entire property (whether for profit or not), including through platforms such as Airbnb, estate agents, or other third-party agencies.
 - Subletting part of the property where such action is prohibited under the tenancy agreement or requires prior consent from the Council.
 - Vacating the property and permitting members of the tenant's family to occupy it.
 - Misrepresentation by the tenant (or by a third party on their behalf, even if the tenant is unaware) which results in the offer and acceptance of a property.
 - Selling or transferring the keys to a property, including during a mutual exchange.
 - Assigning the tenancy to an individual who is not entitled to it and without the Council's consent.

- Making false applications leading to the succession of a tenancy following the tenant's death.
- Submitting a fraudulent Right to Buy application, based on false or misleading information.
- Failing to use the property as the tenant's principal home and/or abandoning the property.
- Failing to notify the Council of any changes in circumstances while on a waiting list or during the application process.

3.2 Such fraudulent activities not only result in financial costs to Sandwell taxpayers but also significantly reduce the number of properties available for rent, thereby depriving families and vulnerable individuals who are awaiting housing through the 'Choice Based Lettings' register.

4. Policy Statement

4.1 We will investigate all instances of tenancy fraud reported to us by staff, residents, contractors, and external agencies. Our commitments are to:

- Publicise tenancy fraud through communications with residents.
- Act promptly when investigating all allegations of suspected tenancy fraud.
- Provide training to our staff to enable them to identify potential tenancy fraud.
- Maintain the confidentiality of complainants' identities.
- Support complainants and witnesses in legal proceedings, should it be necessary to go to court.
- Collaborate with our partners to detect and prevent tenancy fraud, support vulnerable victims, and direct them to appropriate agencies.
- Utilise the Prevention of Social Housing Fraud Act 2013's Unlawful Profit Orders and the Proceeds of Crime Act.

4.2 Prevention

To mitigate the risk of tenancy fraud, we will verify the identity of all prospective tenants in the following circumstances:

- Submission of a direct application for accommodation, followed by identity verification during the application and offer stages.
- Receipt of an internal transfer offer.
- Submission of a Right to Buy application.
- Request for tenancy assignment.
- Request for tenancy succession.
- Participation in a mutual exchange application.

4.3 To verify the identity of the tenancy holder(s) and household members, we will:

- Retain photographs of tenants on customer records.
- Verify that identification provided is valid and authentic.
- Retain copies of identification documents provided at sign-up.
- Monitor the continued residency of household members.
- Participate in the National Fraud Initiative to detect fraudulent applications and tenancies.
- Utilise internal proactive data matching exercises.
- Provide a dedicated Officer who will serve as the central point of contact.
- As part of the verification process, a credit check may be conducted. This will include:
 - Confirming the tenant's identity.
 - Verifying the tenant's occupation history.
 - Checking for any property interests held by the tenant.

4.4 Home Checks

To proactively manage the risk of tenancy fraud, we will conduct comprehensive Home Checks (to assess both the tenancy and the property) at least every three years. These checks will include the verification of the identity of all occupants.

4.5 Taking action

Partnership working is critical to the successful prevention and detection of tenancy fraud. We will work with a range of agencies,

including statutory, non-statutory, and voluntary sector organisations.

4.6 Investigation Review

When investigating a suspected case of tenancy fraud, the evidence collected will be thoroughly reviewed to determine whether the allegation can be substantiated.

4.7 Legal Action

If sufficient evidence is obtained to support a case of tenancy fraud, the tenant will be notified and asked to provide an explanation regarding the use of their home. Should the tenant's explanation fail to counter the evidence collected, legal action to recover possession of the property will be initiated.

4.8 Recovery of Costs

Where legal action to recover possession of a property is successful, the tenant will be liable for court costs. Unlawful Profit Orders, as outlined in the Prevention of Social Housing Fraud Act 2013, will be used to recover any profit gained from subletting.

4.9 Proceeds of Crime

The Proceeds of Crime Act will be utilised to recover any profits or gains derived from fraudulent activities, such as a fraudulent Right to Buy purchase

4.10 Removal from Waiting List

Fraudulent applications will be removed from the waiting list, and the applicant may face a period of exclusion, typically lasting 12 months, before being permitted to reapply.

4.11 Re-allocation of Properties

Properties recovered from fraudulent use will be re-let in accordance with Sandwell Council's Allocations Policy.

4.12 Reporting Tenancy Fraud

Fraudulent applications will be removed from the waiting list and applicants may face a period of exclusion (usually 12 months) before being allowed to reapply.

4.13 How You Can Report Fraud

The council operates a zero tolerance on fraud, all instances are investigated and the perpetrator(s) dealt with in accordance with the Tenancy Fraud Policy.

4.14 You can report tenancy fraud in the following ways:

- Online: via [MySandwell](#)
- Email: fraud_investigation@sandwell.gov.uk
- Post: Counter Fraud Unit, PO Box 16328, Oldbury, B69 9EZ

5. Development of Policy

5.1 This policy has been developed by the Council's Tenancy Management Team and the Counter Fraud Unit.

6. Related Documents

6.1 The following documents should be considered in conjunction with this policy:

- [Anti-Fraud and Corruption Policy](#)
- [Counter Fraud Strategy](#)
- Tenancy Sustainment Policy (Draft)
- [Housing Allocations Policy](#)
- [Tenant Handbook](#)
- [Tenancy Conditions](#)

6.2 Relevant information, along with a [reporting mechanism](#) for Tenancy Fraud, is also available to the public on the Council's website.

7. Legal Framework

7.1 The following documents that should read in conjunction with this policy:

- Prevention of Social Housing Fraud Act 2013
- 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.

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

- Subletting or parting with possession of a property, or ceasing to occupy it, knowing that such actions constitute a breach of tenancy. A person convicted of this offence may be subject to an unlimited fine.
- Dishonestly subletting without consent, in breach of tenancy, and ceasing to occupy the property as their only or principal home. A person convicted of this offence may face imprisonment for up to two years and/or an unlimited fine.

7.3 PoSHFA provides local authorities with the power to prosecute cases of unlawful subletting and enables the Court to issue Unlawful Profit Orders, requiring the tenant to repay any profits made from unlawful subletting. These orders may be issued in both criminal and civil proceedings.

7.4 The Fraud Act 2006 defines fraud as the act of breaching any of the following:

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

7.5 A person convicted of fraud may face a maximum penalty of 10 years' imprisonment and/or an unlimited fine.

7.6 Furthermore, Sandwell Council will comply with the expectations set out by the Regulator of Social Housing (RSH) under the Tenancy Standard, which requires that "Registered providers must take action to prevent and tackle tenancy fraud."

8. Equality and Diversity

8.1 Sandwell Council will ensure equal and fair access to our services; we will do this by taking into consideration the individual needs of our tenants, their family or other persons living with them. We will ensure that individual needs are considered throughout the Tenancy Management process and make reasonable adjustments where necessary.

8.2 The Council will treat people fairly and with dignity and respect.

8.3 All staff are trained in Equality, Diversity, and Inclusion to embed understanding about where we may need to adapt normal policies, procedures, and ways of working to accommodate resident's individual needs. This is mandatory training which is monitored by our Learning and Development Team. Our Equality, Diversity and Inclusion Framework also meets our duties under the Equality Act 2010.

8.4 The draft Equality Impact Assessment completed for the Good Neighbourhood Management Policy has identified no negative impacts, with positive impacts identified for some protected characteristics as this Policy will promote understanding and good relations within neighbourhoods.

8.5 **Reasonable Adjustments**

Sandwell Council will support the needs of our diverse residents by making reasonable adjustments to our Tenancy Management processes, which could be a physical change or change in work practices to avoid any disadvantage to a resident in accessing this policy. Examples of reasonable adjustments include:

- We will provide information in appropriate alternative formats (e.g. large print).
- We will risk assess and re-prioritise duties by considering the vulnerabilities or individual needs of the household where identified.
- We will use plain language.
- This policy is published on our website, and residents can do the following:

- Change colours, contrast levels and font size.
- Zoom in up to 300% without text spilling off the screen.
- Access the policy from a smart phone, tablet, laptop, or PC.

Customers can also request that we make any other reasonable adjustments in the following ways:

- in person
- in writing for example by email, by post, text
- by telephone
- by a family member when we have been given permission to do so; and or
- a member of staff may suggest for one to be made, when they are aware it will support the customer needs.

For more information, please refer to Sandwell's [Reasonable Adjustments Policy](#).

9. Monitoring and Review

9.1 This policy will be checked on an annual basis to ensure that it is accurate and that any links are up to date. A comprehensive review of the policy will be undertaken after three years.

10. Policy Document Version Control

Version	Date	Description	Updated By	Approved By
1.0				