Bristol City Council – Housing and Landlord Services

Tenancy Fraud Policy

Version 1

Approved by	Head of Service
Author	Policy and Practice
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Service Area	Tenancy Management / Internal Audit (Fraud Team)
Classification	Operational

History of most recent policy changes			
Date	Page	Change	Origin of change (Such as legislation)

Contents

1. Purpose

The purpose of this policy is to set out Bristol City Council's (BCC) approach to tackling Tenancy and Right to Buy fraud. It is essential that we protect our housing stock, which is in great demand and short supply. The policy sets out a clear approach to identifying and investigating and, where appropriate, recovering costs associated with such fraudulent activity.

BCC must make sure that those in genuine need can access housing and that we have safeguards in place to prevent fraudulent applications.

Right to Buy and Shared Ownership applications are also subject to rigorous scrutiny to detect fraudulent claims. Shared Ownership applications are managed by a contractor who actively investigate applications and suspected fraud, according to their contract specification. This is essential to help preserve vital council housing for future generations.

2. Scope

This policy applies to:

- All current and former tenants of BCC.
- HomeChoice Bristol applicants.
- Applicants applying through the Right to Buy scheme.
- Applicants for Shared Ownership.

This Operational Policy should be read in conjunction with the BCC's Corporate Fraud Bribery and Corruption Strategy.

3. Aims and objectives

- Prevent and deter tenancy fraud.
- Detect and investigate suspected fraud.
- Recover properties obtained or used fraudulently.
- Prosecute offenders where appropriate.

4. Roles and Responsibilities and Authority

The policy sets out that both the Director of Homes and Landlord Services and the Director for Finance [and S151 Officer] Resources Directorate along with their Service Leads; Head of service for Tenancy Management and Chief Internal Auditor are responsible for the implementation of this policy.

All staff involved in detection, reporting, investigating and prosecuting tenancy fraud or abuse has responsibility for delivering this policy. (See Appendix A for a detailed list)

5. The Policy

BCC adopts a zero-tolerance approach to tenancy fraud and employ dedicated fraud investigation officers to prevent, detect and investigate allegations of fraud.

5.1 Legal Context and Consumer Standards

BCC's housing is allocated fairly and used appropriately, in line with the Prevention of Social Housing Fraud Act 2013[1] and associated regulations. The Act makes subletting a social

[1] Prevention of Social Housing Fraud Act 2013

housing property illegal. Tenants sub-letting can be required to repay profits, be fined and or prosecuted in criminal proceedings.

The Prevention of Social Housing Fraud Regulations 2014[2] also allow 'authorised officers within Local Government to obtain information from third party organisations to assist in intelligence and evidence gathering in tenancy and right to buy fraud investigation.' (See Appendix B for further legal context)

Under the Consumer Standards - Tenancy Standard section 2.1.4 states 'registered providers must take action to prevent and tackle tenancy fraud'. Also, section 2.3.1, registered providers should 'publish clear and accessible policies which outline their approach to….tackling tenancy fraud.'

5.2 Bristol City Council Tenancy

Tenants are permitted a lodger under their tenancy agreement however, they must keep other relevant departments informed such as Council Tax. (Council tenants: your tenancy agreement)

Tenancy fraud includes, but is not limited to:

- Sub-letting the whole BCC tenanted property to someone else.
- Subletting a Shared Ownership property outside of the exceptions set out in their agreement. 'It shall be reasonable for the Landlord to withhold consent where underletting does not comply with guidance' set out in the Capital Funding Guide that governs shared ownership[3].
- Key selling to another party, receiving a one-off payment.
- Making false claims or providing false information on an application for:
    - BCC housing.
    - Right to Buy.
    - Shared Ownership.
    - Succession.
    - Assignment.

Where there is evidence of other acts of fraud against the Council this will be referred to the appropriate team to investigate in parallel with any housing and tenancy fraud investigation.(BCC's Corporate Debt Management Policy)

5.3 Prevention Measures

BCC and contracted partners (Shared Ownership) has a responsibility to identify and appropriately report suspected tenancy fraud. To support prevention, we will:

- Follow BCC allocations scheme including appropriate checks and verifications.
- Follow procedures for verifying evidence for Right to Buy and Shared Ownership applications.
- Follow robust procedures during tenancy sign-up. (Voids and Lettings Policy)
- Complete regular tenancy audits.
- Complete and review fraud risk assessments.

[2] The Prevention of Social Housing Fraud (Power to Require Information) (England) Regulations 2014
[3] https://www.gov.uk/guidance/capital-funding-guide/1-shared-ownership

- Ensure relevant officers are aware of policies and procedures relating to changes to a tenancy, so that the appropriate checks are completed and evidence supplied by the applicant. (See Tenancy Changes Policy)
- Provide training to recognise and report suspected tenancy fraud.
- Have clear Fraud notices on sign up/ application documentation. (See glossary of terms for wording)
- Where appropriate teams will have access to the NFI/App Check to verify applications.

This approach ensures early detection of potential fraud and may reduce instances of need for further investigation.

5.4 Detection and Investigation

BCC and their contracted providers (Shared Ownership) will work together to ensure timely detection and investigation by a team of trained and qualified intelligence and investigation officers, authorised under the 2014 Prevention of Social Housing Fraud Regulations.

BCC will encourage good fraud detection and investigation practices by:

- Encouraging public reporting of suspected fraud. (Tenancy fraud)
- Working with, and support, other agencies, and social housing providers to stop tenancy fraud.
- Conduct internal & national data matching exercises. Cabinet Office National Fraud Initiative mandatory data matching exercise is carried out every two years.

Investigations will ensure that the resident's individual circumstances are considered in accordance with our procedures.

5.5 Enforcement and Sanctions

BCC and contracted partners (Shared Ownership) will take enforcement action where appropriate. BCC acknowledges that it is important to ensure that officers involved have a good understanding of the resident's individual circumstances and make reasonable adjustments in each case where appropriate. Potential enforcement actions are:

- Recovery of properties through legal action.
- Exclusion from accessing HomeChoice Bristol for further housing.
- Recover profits a tenant has made from subletting the whole of the home.
- Prosecution for criminal offences.

It is important for the Council to recover costs and or property to be let to qualifying applicants.

5.6 Coercion and Exploitation

Through their tenancy management work BCC officers may already be aware that some residents may be vulnerable to abuse, coercion and or exploitation. (See Tenancy Sustainment Policy) This circumstance can lead to tenancy fraud because the other party has taken control of the property away from the tenant. Examples of this can be:

- CSE (Child Sexual Exploitation)
- Human trafficking

- Cuckooing
- Safeguarding and welfare concerns

Further, officers should have particular regard to vulnerable/ older tenants when Assignment, Right to Buy or Shared Ownership applications are received.

Concerns will be reported to relevant managers and or the Fraud Team who will assist with appropriate referrals for support for the resident, such as to Police, Safeguarding, Social Services Teams or other relevant support service. The Fraud team do not investigate personal fraud or crimes as above against residents.

5.7 Complaints

Residents should follow BCC complaints procedure if they are dissatisfied with their experience of Fraud investigations. Complaints and feedback

5.8 Equalities and Diversity

In developing this policy resident's involvement and consultation needs have been considered. The Corporate Fraud, Bribery and Corruption Strategy has an agreed Equalities Impact Assessment that has been consulted.

We will act fairly and sensitively towards the diverse needs of individuals and communities, and we will take positive action to reduce discrimination and harassment.

Positive impacts have been identified in ensuring that housing is available to qualifying applicants and identifying tenancy fraud contributes to ensuring BCC protects the public funds we administer.

BCC recognises the need to manage investigations and prosecutions for tenancy fraud, ensuring that residents vulnerabilities are taken in to account and reasonable adjustments are applied.

There are circumstances where residents may have been coerced or exploited, and support should be offered to help residents in this situation to maintain their tenancy safely as described in section 5.6 above Coercion and Exploitation.

6. Quality Assurance

6.1 Publishing

This policy will be published on the BCC Website and communicated to relevant operational teams via policy briefings and other appropriate communications.

6.2 Review

The policy will be reviewed by the Policy and Practice team in Five years in accordance with our procedures.

6.3 Monitoring and Reporting Requirements

Services need to meet the KPI’s set and other reporting responsibilities to the regulator. BCC monitor satisfaction, using data and insight from, as a minimum reporting in relation to:

- Complaints

- Tenant Satisfaction Measures

Internal Audit produce six monthly and annual reports for Audit Committee which are published on the BCC website.

6.4 Service Level Agreements:
Service delivery and performance is measured against the Housing and Landlord Services Performance Framework.

BCC uses performance management to enhance service delivery standards and improve tenant experience.

We measure performance to monitor success. In relation to this Policy BCC will:

- Ensure suspected tenancy fraud is reported using the referral process.
- Ensure tenancy fraud referrals within BCC will be replied to within 5 working days.
- Outcomes are shared with operational teams for action.

6.5 Data Sharing
BCC may work with partners to share good practice and prevent and detect fraud. This includes other Council's, the Police, Social Housing Providers and others.

We will share 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 Data Protection Legislation.

BCC' Privacy Statement is on the website, see also BCC's data sharing policy.

Appendices

Appendix A – Roles and responsibilities

HomeChoice Bristol

Receive and verify applications for Bristol City Council housing.

Tenancy Management Team

Identify and report suspected tenancy fraud

Identify vulnerabilities that may indicate a resident is at risk of abuse, and provide appropriate support, referrals or reports.

Housing Officers and Rental Income Officers

Identify trends that may indicate abuse or fraud, such as changes in rental payment patterns or changes in a resident's behaviour.

Housing Officers

Ensure applicants sign declaration forms setting out the rules relating to fraud where relevant, for example as part of discretionary tenancy award procedures.

Lettings Officers

Process lettings and verify information and identification.

Identify discrepancies between information provided in HomeChoice applications and at tenancy sign-up.

Team and Service Managers

Provide advice on referrals to the Fraud Team.

Work with Legal Services and the Fraud Team to support legal interventions where residents have committed tenancy fraud.

Right to Buy Teams

Receive and assess Right to Buy applications and approve qualifying residents.

Report suspected fraud.

Contracted Provider (Shared Ownership)

Manage shared ownership applications.

Identify and investigate suspected fraud.

Report concerns to Bristol City Council.

Request final approval from Bristol City Council for applications.

Legal Services

Advise on referrals for legal action relating to tenancy fraud.

Take legal action to recover properties or profits obtained through tenancy fraud.

Internal Audit Team

Chief Internal Auditor

Ensure sufficient resources are available to investigate suspected fraud and pursue recovery action where appropriate.

Manager or Supervisor

Manage fraud reports.

Provide internal reporting on tenancy fraud cases that Internal Audit has prevented, detected or investigated.

Approve escalations to Legal Services for tenancy action or other legal proceedings.

Investigations Officer

Investigate reports of tenancy fraud.

Identify recoverable savings.

Appendix B – Legal Context

- Prevention of Social Housing Fraud Act 2013
- Housing Acts 1985 and 1996
- Localism Act 2011
- Data Protection Act 2018 and UK GDPR

Appendix C – Glossary of terms

Tenancy Fraud Statement

Bristol City Council has a duty to protect the public funds and assets it administers. Information provided by residents may be used for the prevention and detection of fraud. The council may also share this information with organisations responsible for auditing or administering public funds for these purposes.

More information: [Fraud prevention and detection]

Tenancy Fraud

When someone wrongly occupies a social housing property, often by providing false information, subletting without permission, or attempting to take over a tenancy they are not entitled to. This includes fraudulent Right to Buy and Shared Ownership applications.

Subletting all of the property

When a tenant rents out the whole of their council property to another person while retaining the tenancy agreement with Bristol City Council.

Coercion

Persuading someone to do something through force, intimidation or threats.

Exploitation

Taking unfair advantage of someone for personal gain. In the context of housing, this may include benefiting from a person's home, resources or circumstances.

Succession

The legal process of taking over a tenancy, title, office, property or position following a death or another qualifying event, in accordance with relevant rules and legislation.

Assignment

The legal transfer of a right, interest or property from one party to another.

Right to Buy

A scheme that allows eligible council tenants in England to purchase their home at a discounted price, with the discount based on the length of their tenancy.

Human Trafficking

A crime involving the recruitment, transportation, transfer or harbouring of people through force, fraud or coercion for the purpose of exploitation, such as forced labour.

Cuckooing

A form of criminal exploitation where offenders take over a vulnerable person's home and use it for illegal activities, such as drug dealing.

Reasonable Adjustments

Changes made to remove or reduce disadvantages experienced by disabled people. These can include physical changes to buildings or changes to policies, procedures and services to ensure equal access.