



CABINET: 10 SEPTEMBER 2019

Report of: Director of Housing and Inclusion

Relevant Portfolio Holder: Councillor J. Wilkie

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SUBJECT: TENANCY FRAUD POLICY

Wards affected: Borough wide

1.0 PURPOSE OF THE REPORT

1.1 To consider the proposed Tenancy Fraud Policy

2.0 RECOMMENDATIONS TO CABINET

2.1 That the Tenancy Fraud Policy attached at Appendix 1 to the report be approved and implemented.

3.0 BACKGROUND

3.1 Following a recent Audit review of the Right to buy process it was identified that the Council did not have a Tenancy Fraud Policy in place.

3.2 Tenancy Fraud can present itself in various forms and can arise at any stage during the lifecycle of a tenancy.

3.3 Types of Tenancy Fraud can be identified as:

- Obtaining a tenancy through a false statement
- Using the tenancy to fraudulently claim benefits
- Not using the property as the only and principle home
- Illegally sub-letting the whole property
- Fraudulently applying for a property through an assignment or exchange
- Unauthorised or fraudulent succession

- Right to Buy fraud

3.4 The Housing and Inclusion Service do have measures in place to tackle tenancy fraud, but these measures have not previously been documented within one policy.

4.0 National Fraud Initiative (NFI)

4.1 The Council participates in data matching exercises through the NFI and submits data to be matched against private and other public sector bodies to highlight possible instances where tenancy fraud is being perpetrated.

5.0 Impact of failing to tackle tenancy fraud

5.1 We recognise that failing to tackle tenancy fraud can have an impact on the Council and the wider community. The potential impacts of tenancy fraud are:

- Housing stock is not put to best use, with those in greatest need not being able to access social housing.
- There are longer waiting lists for tenancies with more people spending longer in unsatisfactory, overcrowded or temporary accommodation.
- Unauthorised sub-letting 'tenants' can be exploited and open to increased rents and unlawful eviction.
- There is a greater risk of properties being used for illegal purposes.
- There is a greater risk of damage to properties resulting from modifications to make them more suitable to sub-let.
- There is a greater risk of properties becoming potentially unsafe.
- Impact on Council resources due to the potential cost of investigation and court proceedings.
- There can be a greater risk of Anti-Social Behaviour.

5.2 The implementation of a Tenancy Fraud Policy would ensure clearer guidance for staff on how to identify and tackle tenancy fraud.

6.0 SUSTAINABILITY IMPLICATIONS

6.1 Having a Tenancy Fraud Policy should help support sustainable communities.

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

7.1 There are some financial and resource implications arising from this report, as it provides an opportunity to target existing resources more effectively and reduce the potential for tenancy fraud to occur.

8.0 RISK ASSESSMENT

8.1 The actions referred to in this report offer an opportunity to introduce a clearer policy to help the Council tackle and minimise tenancy fraud.

Background Documents

There are no background documents (as defined in Section 100D (5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no direct impact on members of the public, employees, elected members and / or stakeholders, therefore no Equality Impact Assessment is required.

Appendices

Appendix 1 - Tenancy Fraud Policy



Tenancy Fraud Policy

1.0 Introduction

1.1 West Lancashire Borough Council is committed to dealing with tenancy fraud ensuring fair allocation of its properties and making best use of its housing stock. The Council will tackle fraudulent applications, unlawful subletting and tenancy misuse promptly and effectively, to ensure all its housing stock is used by those with legitimate housing need.

1.2 Policy Aims and Objectives

This policy aims to set out West Lancashire Borough Council's approach to tackling tenancy fraud, and to maximise the availability of the Council's housing stock by preventing misuse in accordance with relevant legislation.

1.3 Scope of Policy

- Proactively prevent fraudulent activity.
- Prevent fraudulent applications for housing.
- Use Tenancy Reviews to identify potential fraud.
- Prevent fraudulent right to buy applications.
- Detect and tackle fraud associated with mutual exchanges.
- Raise awareness amongst staff and the public about tenancy fraud and what that means.
- Encourage residents and members of the public to report suspected cases of tenancy fraud to the Council.
- To deal effectively with reports and observations of tenancy fraud.
- Work in partnership with statutory agencies and partners in the West Lancashire area to share information, data and resources, where appropriate in accordance with the Data Protection Act.

2.0 Types of Tenancy Fraud

2.1 There are different types of tenancy fraud, the most common being:

- Obtaining a tenancy through a false statement.
- Using the tenancy to fraudulently claim Housing Benefit or Universal Credit.
- Not using the property as the only and principle home; this may be via abandonment or key selling.
- Illegally sub-letting the whole property.
- Fraudulently applying for a property through an assignment or exchange.
- Unauthorised or fraudulent succession - misrepresenting circumstances to meet the legal criteria in place to succeed to a tenancy previously held by another family member.
- Right To Buy fraud – falsely claiming the Right to Buy and associated discounts as a result of misrepresenting who lives in the property or tenancy history.

3.0 Impact of Tenancy Fraud

3.1 We recognise that failing to tackle tenancy fraud impacts on the Council and the wider Community in that:

- Housing stock is not put to best use, with those in greatest need not able to access social housing.
- Longer waiting lists for tenancies with more people spending longer in unsatisfactory, overcrowded or temporary housing.
- Unauthorised sub-letting 'tenants' can be exploited and open to increased rents and unlawful eviction.
- There is a greater risk of properties being used for illegal purposes.
- There is a greater risk of damage to properties resulting from modifications to make them more suitable to sub-let.
- There is a greater risk of properties becoming potentially unsafe.
- There is an impact on Council resources due to the potential cost of investigation and court proceedings.
- There can be a greater risk of Anti-Social Behaviour.

4.0 What we will do to prevent and detect fraud

4.1 Housing Application process

As part of our drive to prevent tenancy fraud, all applicants need to supply proof of identification, and provide evidence to support their housing need e.g. income details, tenancy agreements, medical information. Where necessary we will check information with other agencies including Experian and conduct home visits to further verify information provided. We will keep a photograph of all new tenants on file.

4.2 Homelessness Prevention

The Councils Homelessness Prevention Team carry out a homeless assessment on clients who deem themselves to be homeless or threatened with homelessness. Following the assessment and the information the client provides the Council will make a decision whether the client is owed a duty to be re-housed. The client signs a declaration to state the information they have provided is correct.

4.3 Right to buy process

Right to Buy (RTB) fraud occurs when a tenant knowingly provides false information in order to falsely claim the Right to buy or associated discount. This may include misrepresenting their tenancy history, not declaring a previous purchase through the RTB scheme or adding a family member to the application when they do not meet the 12 month residency requirement. All applicants and family members to be included in the RTB application are required to provide identification and evidence of how the purchase will be funded.

4.4 Sub-letting and Abandonment

The Prevention of Social Housing Fraud Act 2013 (Section 1) makes subletting the whole of a social rented dwelling a criminal offence.

The tenant must reside in the property as their principal home. If we receive reports that the tenant is not using the property as their principal home we will follow the Council's Abandonment procedure and carry out investigations.

Council tenants can sub-let part of their home or take in a lodger during the tenancy period, but must get the Council's permission first.

Council Officers carry out an Introductory Tenancy Review visit from the 8 month of the 12 month introductory period, these are designed to ensure tenancy conditions are being met, and that the household member details are correct. This review will also be used to determine if the tenant is using the property as their main principal home.

4.5 False claims for Succession, Assignment & Mutual Exchange

Fraudulent applications may be received from persons claiming to have been resident with the deceased tenant, when in fact they have been resident elsewhere or they fail to disclose relevant information that would make them ineligible for succession rights. Applicants who are applying to succeed to a tenancy will be asked to provide a death certificate and proof they have resided at the property for over 12 months prior to the date of death. If the application is approved, the applicant will need to sign a succession acceptance form.

4.5.1 Unauthorised Mutual Exchange and assignment is also considered fraudulent where tenants assign their tenancies by way of swapping properties by moving without obtaining written consent. Or the tenant assigns their tenancy to a partner, friend or family member without obtaining written consent from the Council. Where the Council is made aware of a mutual exchange that has taken place without consent, the Council will in the first instance request that the two parties return to their own tenancy. Should all parties fail to do so, then the Council will seek to terminate the tenancies by serving a Notice to Quit on the original homes and seeking repossession. There will be instances where the Council will give retrospective permission but this will be based on the individual circumstances of each case.

4.6 **Financial Fraud**

Financial fraud can occur when tenants are fraudulently claiming benefits, benefit fraud is knowingly obtaining benefits to which there is no entitlement and it is the deliberate withholding or providing of false information in order to obtain benefits.

It covers all benefits, such as:

- Housing Benefit
- Council Tax Benefit
- Income Support
- Pension Credits
- Jobseekers Allowance
- Disability Living Allowance
- Universal Credit

Common types of benefit fraud:

- Failure to declare earnings or income;
- Failure to declare a change in circumstances:
- Failure to declare savings:
- Failure to declare a partner who lives with you:
- Failure to declare other household members: or
- Claiming Housing and Council Tax Support whilst not living in the property.

Financial fraud can also occur when rent accounts are in credit and there are irregularities in payments which maybe an indication of money laundering. Members of staff who Suspect Money Laundering activity should report it to the Council's Money Laundering Responsible Officer in accordance with the Council Anti-Money Laundering Policy. When benefit fraud is detected a referral will be made to the Benefit Manager in Revenues and Benefits, the Benefit Service will complete the referral process to the DWP.

4.7 National Fraud Initiative (NFI)

The Council participates in data matching exercises through the NFI and submits data to be matched against private and other public sector bodies to highlight possible instances where tenancy fraud is being perpetrated.

5.0 Enforcement/Action

- 5.1 The Council is prepared in all cases to take the relevant legal action such as ending a tenancy or criminal action where there is deemed to be sufficient evidence of tenancy fraud, this may be obtained through tenancy checks, the use of Experian or data matching on the National Fraud Initiative Website (NFI). Also action may be taken against any member of staff found to be involved with tenancy fraud in line with the Council's Anti-fraud, bribery and corruption policy and where misconduct is found they will be subject to the Council's Disciplinary Procedures.