



Tenancy Fraud Policy

Directorate: Customer Services
Date of Issue: March 2017
Version: V2

live • grow • thrive • together

1. Introduction

The Prevention of Social Housing Fraud Act was brought fully into force in England on 15 October 2013, and makes subletting the whole of a social rented dwelling a criminal offence. Although there are various different types of tenancy fraud, the Act is primarily concerned with strengthening the powers of social landlords to tackle tenants who sublet the whole of their dwellings for a profit. The policy supports social housing being occupied by those in the greatest housing need.

Salix Homes' tenancy fraud policy supports the fair allocation and occupation of social housing to those in most need, in accordance with government guidelines and Salford Council's allocations policy. Front line staff members and customers in the neighbourhoods have a key role to play in the prevention and investigation of all aspects of tenancy fraud.

2. Aim / Purpose of the Policy

The purpose of the policy is to set out Salix Homes' approach to tackling tenancy fraud and to maximise the availability of Salix Homes' properties by preventing the misuse of its housing stock in accordance with relevant legislation.

The objectives of this policy are to:

- Prevent acts of tenancy fraud and build trust in the process of housing allocation.
- Detect where tenancy fraud is being carried out through awareness raising within Salix Homes, its customers and partners.
- Act on reports and identification of tenancy fraud in partnership with Salford City Council's fraud department, taking swift and proportionate action to recover properties and associated damages where appropriate.

3. Policy

1.0 TYPES OF TENANCY FRAUD

1.1 The Audit Commission defines fraud as "any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss" The main categories associated with tenancy fraud include:

a) Obtaining a tenancy by deception

Customers applying for social housing within Salford will sign a clear statement, confirming that the information given is true and correct to the best of their knowledge. It adds that any false information given or failure to supply any information requested may result in the loss of any home offered and details may be shared for the prevention and detection of crime, including fraud.

Obtaining a tenancy by giving false information can include:

- Providing false information as part of a homeless application
- Providing false information as part of an application to join the housing register
- Failing to update personal information as a result of a change in circumstances
- Using false documents such as forged identification or claiming another's identity

b) Unauthorised subletting

The Prevention of Social Housing Fraud Act 2013 states that an offence is committed if a tenant either sub-lets or parts with possession of the home (or part of it without landlord's consent) and *knows* this is in breach of the tenancy agreement. The more serious offence is where the tenant not only knows he is in breach of his tenancy agreement, but does so *dishonestly*. The potential penalties for the offences includes up to two years' imprisonment and a fine of up to £50,000. Furthermore, Salix Homes' states in their tenancy agreement:

Lodgers and subletting

"You have the right to take in lodgers provided that you do not cause your home to become overcrowded. You must notify us of the name and date of birth of anyone residing in your home, and give details of the accommodation which they will occupy.

You have the right to sub-let part of your home. You must get our written permission before doing so. This permission will not be unreasonably withheld."

Unauthorised subletting includes:

- Allowing another person(s) to use part of the property in exchange for rent without the landlord's permission.
- Allowing another person(s) to use the whole of the property in exchange for rent (the tenant no longer uses the property as their only or principal home).

Authorised subletting requires Salix Homes' permission to allow another person to have exclusive use of part of the home in exchange for rent. The tenant of Salix Homes must also live in the property as their only or principal home.

c) Non-occupation and absence

Salix Homes' tenancy agreement states:

Possession

"You must take possession of your home from the start of the tenancy and must not sub-let the whole of it. It must be your only or principal home throughout the tenancy or the principal home of at least one of you if you are joint tenants."

Fraud takes place where the tenant is no longer using the property as their only or principal home. They may use the property infrequently, as an address to return to, as an address to claim credit or benefits, or they may abandon the property completely.

Where non-occupation is suspected, consideration must be taken to ensure the lawful tenant has no intention to return to the property.

Long term absence refers to a tenant's absence from the property of over 28 days and is permitted under certain circumstances for specified periods of time, with prior written agreement from Salix Homes. A tenant can request that a relation or friend takes care of the property in their absence but this 'caretaking' needs to be agreed in advance in writing by Salix Homes. In this instance, the absent tenant would still be responsible for all conditions of tenancy and action may

be taken against the tenancy in the event of any breach.

d) Key selling

Key selling involves the tenant giving their keys to another person in return for financial gain without informing the landlord. Once the keys have been exchanged, the person left residing in the property would be classed as an unauthorised occupier.

e) False succession

Succession takes place automatically in law where a tenant dies and the qualifying successor remains in the property. Succession is considered fraudulent where:

- The tenant dies and the remaining occupier does not automatically qualify for succession or inform the landlord.
- The remaining occupier knowingly gives the landlord misleading information to incite the landlord to grant the succession where they wouldn't ordinarily. See succession and assignment policy.

Care will be taken when dealing with such cases due to the potentially sensitive nature of the situation.

f) Unauthorised mutual exchange and assignment

An assignment is considered fraudulent where:

- One or more Salix Homes' tenants assign their tenancies by way of 'swapping' properties by moving without obtaining written consent.
- The tenant 'assigns' their tenancy to a partner, friend or family member without obtaining written consent from Salix Homes.

In circumstances of unlawful assignment, the remaining occupier has in effect bypassed the allocations process and illegitimately obtained a property over others on the waiting list. For further information see the Mutual Exchange policy.

g) False Right to Buy or Right to Acquire application

A tenant makes an application to purchase their property and does so giving false information or knowingly incites Salix Homes to admit the application where they wouldn't ordinarily qualify.

2.0 PREVENTION & DETECTION

2.1 The most effective measures to prevent tenancy fraud begin with robust and effective homeless and allocations processes:

- Part VII of the 1996 Housing Act should be followed in conjunction with the CLG Code of Guidance 2006 to ensure those presenting to the Authority as homeless have their circumstances thoroughly investigated to satisfy their claim for priority need.
- Similarly, Part VI of the same Act should be carefully followed in accordance with the Council's allocations policy and Code of Guidance to ensure need is fairly and vigorously assessed and social housing tenancies allocated accordingly.

2.2 In cases where a tenant has fraudulently obtained social housing, a tenant can be prosecuted within six months of the tenancy start date.

Tenant contact

2.3 Salix Homes will only discuss tenancy matters with the named tenant unless authority has been given to another person by the tenant. In such cases, a form of authority must be completed and signed by the tenant and the information will be recorded on the housing management system. It may be appropriate to carry out a tenancy visit at the property to establish whether the tenant is still living at the property.

2.4 Similarly, where an additional household member form is completed by the tenant and a new fob issued, further investigation may be necessary to ensure the tenant is still resident at the property.

Photographic Identification

2.5 Salix Homes will require photographic identification from all new tenants at the sign up appointment. This will be used to confirm identity as required during future contact.

2.6 Additionally, when a tenant is changing their tenancy, Salix Homes will require photographic identification from all relevant parties.

2.7 During a tenancy visit, Salix Homes will require photographic identification if there is none on file.

Data

2.11 Data will be shared with the local authority and appropriate credit referencing agencies to identify where a tenant may be providing false information in regards to their living circumstances. Once a discrepancy has been identified, a case will be created and further investigation will take place. Salix Homes will work in partnership with Salford Council and external partners to achieve the strategic aims of ensuring best use of social housing stock and tackling fraudulent activity. To achieve this, information may need to be shared regarding our tenants in accordance with the Data Protection Act 1998.

2.12 Salix Homes will work in partnership with appropriate agencies as part of the National Fraud Initiative data matching exercise to prevent and detect fraud.

2.13 Salix Homes will ensure that all tenants' personal data is requested and stored in accordance with the Data Protection Act 1998.

3.0 AWARENESS

3.1 Local residents have a major part to play in the prevention and detection of tenancy fraud as they are well placed to notice changes to a household. Salix Homes will encourage customers to report suspected fraud (anonymously if preferred), in the following ways:

- By telephone – this can be anonymous.
- By email to a dedicated inbox
- By completing an online reporting form on the website
- By completing a reporting form at any office

- By informing a Salix Homes representative direct via telephone or in person

3.2 In addition, Salix Homes will regularly publicise fraud awareness information in customer newsletters, in communal and reception areas, and via the website. This publicity will include:

- Salix Homes' commitment to tackling tenancy fraud and taking possession action if necessary
- Examples of tenancy fraud where action has been taken and a successful outcome achieved
- Confirmation that tenancy fraud can result in prosecution

3.3 Salix Homes reserves the right to utilise other communications media to raise awareness about tenancy fraud where appropriate.

4.0 INVESTIGATION

4.1 Tenancy fraud is the breach of contract between a landlord and tenant. Salix Homes will address civil cases in the County Court if repossession and action to recover damages is required. In the majority of cases following investigation, cases of tenancy misuse result in the tenant voluntarily relinquishing their tenancy or complying with the terms of their tenancy agreement. Salix Homes will take a common sense approach when assessing whether to start legal proceedings.

5.0 PROPERTY AND FINANCIAL RECOVERY

5.1 When it has been established that tenancy misuse is taking place, steps will be taken to recover possession of the property. Salix Homes will work in partnership with Salford City Council's fraud department to decide whether criminal or civil court proceedings are most appropriate. Salford City Council will lead on any criminal prosecution.

5.2 An amendment of the Housing Act 1988 ensures that assured tenants will lose their security of tenure for good if they have sub-let or parted with possession of the whole of their property. Therefore security of tenure will not be re-gained if the tenant subsequently moves back into the property.

5.4 Salix Homes may seek a money judgment to recover financial losses through an Unlawful Profit Order in respect of any unlawful profit made as a result of a tenant sub-letting their social home.

6.0 SUPPORT FOR SUB-LETTEES

6.1 Subtenants may not be aware that they are using the property unlawfully and can be victims of their housing situation. Unlawful subtenants could be vulnerable to illegal eviction by the tenant at little or no notice once the situation has been uncovered. Salix Homes will employ sensitivity when speaking with subtenants and will sign post them to Salford Housing Options for advice and support with re-housing. Subtenants will also be advised to seek independent legal advice and given the Victim Support line.

6.2 Salix Homes will keep the subtenant(s) informed of legal action and take a reasonable approach when giving timescales to leave the property.

4. Service Standards & Performance Measures

- Number of reports of tenancy fraud
- Number of cases of tenancy fraud as a % of total tenanted stock
- % of tenancy fraud cases reported resulting in positive outcome

5. Risks

The Customer Contact Manager is the lead in all risk factors and responsible for risk management.

Risk	Mitigation	Owner
Changes to government legislation mean that the policy is no longer legally sound.	Maintain abreast of current policy and government rationale. Attend North West Tenancy Fraud Forum.	Tenancy specialist team
Changes to allocations policy mean that the policy is no longer valid.	Continue to liaise with Council representatives as well as internal colleagues to discuss allocations, national fraud initiative and review data matches.	Tenancy specialist team & neighbourhood managers
Financial impact on organisation in managing tenancy fraud.	Reporting to appropriate bodies to assess and analyse costs against social return.	Tenancy specialist team.

6. Related Procedures & Documents

- Succession and Assignment policy and procedure
- Mutual Exchange policy and procedure
- Abandonment policy and procedure
- Left in occupation policy and procedure
- Audit Commission's annual report: Protecting the Public Purse
- Allocations and lettings policy

7. Responsibilities

Board and Committee have responsibility for the final approval of this policy and associated procedures, to ensure Salix Homes is able to achieve its corporate aims and objectives and uses resources in an efficient and effective way.

Senior Management Team has responsibility for the initial approval of this policy and associated procedures, and for deciding whether formal approval is required by Directors, Committee or Board.

Customer Panels have responsibility for considering changes to this policy and associated procedures at the consultation stage of development, and for recommending approval by SMT.

Salford City Council has responsibility for leading and reporting on any prosecution due to fraud.

All Salix Homes employees, partners and customers have responsibility for ensuring they are aware of and familiar with implementing this policy and procedure as relevant to their role.

8. Related Legislation

- Prevention of Social Housing Fraud Act 2013
- Fraud Act 2006
- Forgery and Counterfeiting Act 1981
- Data Protection Act 1998 and article 8 of the European Convention on Human Rights