

# Tenancy Fraud Policy



Directorate: Communities  
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Version: 4

## Document Information

### Scope:

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 by raising awareness within Salix Homes, and with its customers and partners.
- Act on reports and identification of tenancy fraud and take swift and proportionate action to recover properties and/or damages where appropriate.

### Service Standards / Performance Measures / Corporate Strategy:

To ensure all suspected cases of tenancy fraud are thoroughly investigated  
To ensure the risk of tenancy fraud is minimised by using appropriate preventative measures  
To make the best use of social housing properties

### Risks:

#### Risk One

**Risk:** Changes to government legislation mean that they policy is no longer legally compliant.

**Mitigation:** Keep up to date with current policy and government rationale. Attend North West Tenancy Fraud Forum. Take legal advice on legislative changes.

**Owner:** Tenancy specialist team

#### Risk Two

**Risk:** Changes to allocations policy mean that the policy is no longer valid.

**Mitigation:** Continue to liaise with council representatives as well as internal colleagues to discuss allocations.

**Owner:** Tenancy specialist and neighbourhood managers.

**Document Information**

**Risk Three**

**Risk:** Financial impact in organisation in managing tenancy fraud

**Mitigation:** Reporting to appropriate bodies to assess and analyse costs against social return.

**Owner:** Tenancy specialist team

The Strategic risk relating to Fraudulent activity is as follows:

SR39: Failure to prevent fraud across the organisation results in financial and / or data loss, system and process failure and reputational damage.

As part of this risk, the following mitigating control is in place:

Procedures in place to mitigate against tenancy subletting and tenancy application fraud

**Responsibilities**

**Board and Committee** have responsibility for the final approval of this policy and associated procedures, to ensure Salix Homes can 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 Customer Panels, Committee or Board.

**Salford City Council** has responsibility for leading and reporting on any prosecution due to fraud. Any information passed to Salford City Council will be done in accordance with Salix Homes' privacy notice where appropriate and in accordance with the requirements of the General Data Protection Regulation

**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.

**Related Policy/Procedure & Documents:**

- Succession and assignment policy and procedure
- Mutual exchange policy and procedure
- Left in occupation policy and procedure
- Lettings policy
- Purchasing a property policy and procedure
- Changes of tenancy policy and procedure
- Audit Commission's annual report: Protecting the public purse

**Related Legislation / Relevant Regulation:**

Prevention of Social Housing Fraud Act 2013

**Document Information**

Fraud Act 2006  
 Forgery and Counterfeiting Act 1981  
 Immigration Act 2014 and 2016  
 Housing Act 1985  
 Housing Act 1988 and 1996  
 Data Protection Act 2018  
 General Data Protection Regulation

**Retention & Legal Basis for Storage:**

Salix Homes processes accident records and reports under the following purposes:

- Necessary for Contract: Processing is necessary for the performance of a contract with the data subject or to take steps to enter into a contract.
- Legitimate Interest: Necessary for the purposes of legitimate interests pursued by the controller or a third party, except where such interests are overridden by the interests, right of freedoms of the data subject.

The retention periods for the relevant documents are:

Application for accommodation	6 years after offer accepted
Current tenants' tenancy files	Length of the tenancy plus 10 years
Former tenants' tenancy files	10 years after tenancy is terminated – saved for 10 years due to Right to Buy

**Stakeholders:**

Contacted the managers of neighbourhoods, community safety and income management to ask if they or their teams wish to raise any issues with the current policy or if they want any recommendations for changes considering.

Circulated this document to managers of neighbourhoods, income management and community safety for their comments/feedback.

**Data Protection Impact Assessment (DPIA)**

DPIA completed 16 December 2019 by Tenancy Specialist.

**Equality Impact Assessment (EIA)**

EIA completed on 16 December 2019 by Tenancy Specialist.

## Introduction

1. Social housing fraud can present itself in many forms and at different times during a tenancy. Salix Homes' tenancy fraud policy is intended to ensure that the organisation is vigilant in preventing tenancy fraud and that the right mechanisms are in place to detect, prevent and act upon instances of tenancy fraud.
2. The government has demonstrated the importance of tackling fraud including tenancy fraud with the introduction of the Prevention of Social Housing Fraud Act 2013 and the National Fraud Initiative. Salix Homes will support this national agenda through the Tenancy Fraud Policy.
3. Salix Homes will support 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 employees and customers in the neighbourhoods have a key role to play in the prevention and investigation of all aspects of tenancy fraud.
4. Salix Homes will ensure that any data whether received or shared by Salix from or with third parties will be done so in accordance with our privacy notice and in accordance with the GDPR principles. Salix Homes may also share information to meet its legal obligations, in connection with legal proceedings or where instructed to do so by court order, or to protect the vital interests of an individual.
5. This policy applies to the social housing area of Salix Homes.

## Types of Tenancy Fraud

6. This policy concentrates on the three main types of tenancy fraud:
  - Fraudulently obtaining a social housing tenancy
  - Unlawful occupation (subletting and key selling)
  - Fraud involving the Right to Buy/ Right to Acquire

## Fraudulently obtaining a social housing tenancy

7. Fraudulently obtaining a social housing tenancy can occur in several ways, including:
  - Making a false claim on an application to Salford Home Search
  - Falsely assigning the tenancy to another individual or doing so without Salix Homes' permission
  - Falsely claiming succession of a tenancy when one of our tenants passes away
  - Falsely applying for a Mutual Exchange or conducting an exchange without the permission of Salix Homes.

### Making a false claim in an application to Salford Home Search

8. A false application can occur when an individual applies to Salford Homesearch when they already own their own property, misrepresent their need for social housing, are ineligible for social housing (no recourse to public funds) or already have a social housing tenancy elsewhere. This can include where they have a relevant change in circumstances prior to receiving an offer of accommodation and fail to declare it resulting in an offer of a tenancy that they do not qualify for.
9. Customers applying for social housing in Salford will sign a declaration confirming that the information that they have given on their application is true and correct to the best of their knowledge. Customers are required to update their information on their application if their circumstances change. Any false information given or failure to supply any information requested may result in the loss of any home offered.
10. At point of sign up the neighbourhood officer will verify the identity of the individual signing the tenancy agreement by obtaining photographic identification (ID). They will also seek the tenant's signed consent to take an ID photo that will be used to prevent instances of fraud and stored on the customer's account in line with GDPR.
11. At point of sign up, the neighbourhood officer will confirm the applicant's current circumstances with them to ensure they reflect the reason for rehousing and priority awarded on the rehousing list.

### Making a false claim on a sole to joint application

12. Fraud can occur when a tenant applies to add another party to a tenancy to create a joint tenancy.
13. They may misrepresent their circumstances. This may include where the person to be added to the tenancy has accommodation elsewhere for example, a social housing tenancy or own a property.
14. As part of the decision making on whether to allow the tenancy change, the tenancy specialist team will verify the identity of the individual by obtaining photographic identification, they will carry out checks to ensure they are resident at the property where the tenancy is to be granted, the neighbourhood officer will obtain the tenant's signed consent to take an identification photograph to be used to prevent instances of fraud and stored on the customer's account.

### Making a false application for assignment or conducting an assignment without Salix Homes' permission

15. A false application for assignment can occur when an individual applies for their tenancy to be assigned to another person who would not usually qualify. This can occur when the individual misrepresents their relationship to the tenant or the length of time that they have resided in the property. This can also occur when an application with false household members to satisfy occupancy rules attached to the assignment process.

16. If a tenant conducts an assignment without the permission of Salix Homes, the assignment would be invalid. The person remaining in the property would be unlawfully occupying the property and therefore legal proceedings may commence to take possession of the property.

### Making a false claim for succession

17. Succession rights differ depending on the type of tenancy. Succession is potentially fraudulent when an individual misrepresents their relationship to the tenant or the length of time that they have resided with the tenant.
18. Care will be taken when dealing with cases of a suspected false claim for succession due to the sensitive nature of the situation. However, if Salix Homes identifies that an individual has made a false claim for succession. Salix Home will inform the individual in writing of its knowledge of the false claim and the next steps for the occupier.

### Making a false application for a mutual exchange or conducting an exchange without Salix Homes' permission

19. A false application for Mutual Exchange can occur when an individual makes a false statement on their application for exchange, such as including false household members on an application to satisfy property occupancy.
20. If tenants move without the permission of Salix Homes, the exchange will be invalid, and Salix Homes will make a management decision regarding the occupancy of the individuals who have moved. This may include seeking possession of the properties involved.
21. For a Mutual Exchange to be valid, all parties must move into their respective exchange property. If Salix Homes is made aware that a party does not intend to move into the respective exchange property, then the exchange will be refused.
22. Salix Homes will carry out background checks on applicants to ensure that they do not currently own another property which could be their main home. Such checks may include reviewing the application for previous addresses, council tax records and the social housing register. This is to ensure that housing stock is being allocated to those who are eligible and in need.
23. Salix Homes ensures that the staff members who deal with applications are different to those who allocate properties and the duties of the two teams are segregated.

### Unlawful Occupation (subletting and key selling)

24. Salix Homes' Tenancy Agreement states:

### Possession

25. “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.”

### Subletting

26. Assured tenants can request permission to have a lodger or partially sublet their property, with permission of Salix Homes. The tenant must also live in the property as their only or principal home.
27. Subletting occurs when the tenant allows another individual (known as a sub-tenant) to live in the property in exchange for ‘rent’. Occasionally a tenancy agreement is used, however this may not occur in all cases. The tenant will reside elsewhere.
28. Subletting occurs when the tenant advertises the property on short term lettings sites for full exclusive use. When a room within a property is advertised on a holiday lettings site, Salix Homes will consider this to be running a business from the property and cases such as this will be handled under the Tenancy Management Policy and Procedure.

### Key selling

29. Key selling involves the tenant ‘selling’ their keys to a third party in return for financial gain without informing the landlord. Once the keys have been exchanged, the person left residing in the property would be in unlawful possession of the property.
30. Key selling often means that the tenant is difficult to contact and usually rent payments are made by the illegal occupier rather than the tenant.

## Fraudulent claims for the Right to Buy/ Right to Acquire

31. Fraudulent claims can occur for the Right to Buy/ Right to Acquire when a tenant includes an individual on their Right to Buy/Acquire claim who would not usually be eligible to buy. This may be misrepresenting their relationship or how long the individual has occupied the property (if at all).
32. Fraud occurs if a tenant is not occupying the property as their only or principal home and makes a claim for the Right to Buy/ Right to Acquire. In cases such as this, sub-letting may also occur.
33. Fraud occurs when an individual attains or claims additional discount by falsifying a tenancy history.
34. Instances of Right to Buy/ Right to Acquire fraud are prevented and detected using the Purchasing a Property Policy and Procedure.

## Data

35. Data will be shared with the local authority and appropriate credit referencing

agencies to identify where a tenant may be providing false information on their living circumstances. Once a discrepancy has been identified, a case will be created in the Customer Relationship Management system (CRM) and further investigation will take place.

36. Salix Homes has powers under the Prevention of Social Housing Fraud Act 2013 to conduct searches. Salix Homes uses an online fraud tracking tool in order to conduct electronic searches for suspected instances of tenancy fraud.
37. 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.
38. Salix Homes will ensure that all tenants' personal data is requested and stored in accordance with its privacy notice and the General Data Protection Regulation.

## Awareness

39. 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 or in person
  - By email to a dedicated inbox [tenancyfraud@salixhomes.co.uk](mailto:tenancyfraud@salixhomes.co.uk)
  - By completing an online reporting form via Salix Homes' website
40. Front line employees have a major part to play in the prevention and detection of tenancy fraud. Training will be provided to employees most likely to encounter tenancy fraud. Awareness of tenancy fraud will be promoted within the business.
41. Salix Homes will regularly publicise fraud awareness information. This publicity will include Salix Homes' commitment to tackling tenancy fraud and taking possession action if necessary and examples of tenancy fraud where action has been taken and a successful outcome achieved

## Investigation

42. The responsibility for investigations of suspected cases of tenancy fraud is shared between the neighbourhood teams and the tenancy specialist team. Cases are managed on a shared ICT system.
43. The tenancy specialist team will conduct desktop investigations in relation to suspected instances of tenancy fraud. They will review the data retained about the tenancy, use the online fraud tracking tool and conduct searches for public information about the individual(s) concerned.
44. The neighbourhood teams will conduct home visits to the property to confirm who is in occupancy at the address and where possible obtain statements from sub-tenants.
45. Once enough evidence has been found, the tenancy specialist team and



neighbourhood teams will jointly conduct office appointments to present fraud concerns to the tenant.

## Recovery of the property and unlawful profits

46. Assured tenants lose their security of tenure if they have sublet or parted with possession of the whole of their property. Security of tenure is not regained by moving back into the property. The tenancy becomes a contractual tenancy.
47. When it has been established that tenancy fraud is taking place, steps will be taken to recover possession of the property.
48. The tenant reserves the right to terminate their tenancy at any point during the investigation and possession process.
49. Consideration will be made with every claim for possession to include an unlawful profit order for unlawful profits made from the fraudulent activity.

## Prosecution

50. Tenancy fraud can lead to a criminal prosecution. Salix Homes will consider prosecution for every proven case. Salix Homes will work with Salford Council and the Police to pursue action.

## Support for sub-tenants

51. Salix Homes is aware that sub-tenants may not be aware that they are using the property unlawfully and they can be victims of their housing situation.
52. Sub-tenants could be vulnerable to illegal eviction by the tenant once the situation is uncovered. Salix homes will seek to support sub tenants and provide them with guidance in relation to their housing situation.
53. In exceptional circumstances, Salix Homes will consider sub-tenants under our Left in Occupation procedure.
54. Salix Homes will give reasonable notice to sub-tenants to leave the property.