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# Tenancy Fraud Policy

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**Department:** Governance

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**Author:** Director of Housing & Social Care and Head of Housing

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**Approved by:**

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**Policy owned by:**

- Group Board
- Audit & Assurance Committee
- Finance Department
- Housing Department

**Regulation/Co-regulation:**

- Governance Code
- Homes and Communities Agency (HCA) – Regulatory Framework



# Tenancy Fraud Policy

## 1. Group Board Statement

- 1.1 Trident Group (the organisation) is committed at all times to ensure that homes are provided to those most in need of housing. In seeking to achieve this objective we are mindful of the regulatory framework and the need to ensure that accommodation which has received public subsidy is targeted at those who are on low incomes and have few housing alternatives. We are committed to ensuring the fair allocation of properties, and making the best use of the housing stock we manage. This means we are required to investigate and deal with any potential instances of tenancy fraud.

### Legal Framework

#### 1.2 Breach of tenancy – grounds for possession

There are a number of situations where a tenant's fraudulent actions may result in the organisation taking legal action to end that tenancy. These include:

- Subletting all of a tenancy or part of it without the prior consent of the organisation.
- Obtaining a tenancy by deception or deliberately misrepresenting circumstances resulting in a property being allocated.
- The deliberate misrepresentation of circumstances in order to obtain approval for a mutual exchange.
- The deliberate misrepresentation of circumstances in order to be assigned a tenancy.

#### 1.3 The Fraud Act 2006

Wilfully misrepresenting circumstances or deliberately misleading someone in order to gain from that misrepresentation may also be a criminal offence within the meaning of the Fraud Act 2006. The organisation may involve the Police or Local Authority Council in bringing criminal proceedings against an individual(s) where it is satisfied that there appears to have been criminal intent. See also Fraud and Bribery Prevention and Response Policy.

#### 1.4 The Prevention of Social Housing Fraud Act 2013

The Prevention of Social Housing Fraud Act 2013 creates new specific criminal offences of unlawfully subletting by secure and assured tenants in social housing. This occurs where:

- The whole or part of the property has been sublet.
- The sublet is contrary to the tenancy conditions.
- The tenant has moved out and the tenant knows the sublet is a breach of their tenancy.

The Act gives local authorities powers to prosecute in cases of unlawful subletting, and enables the Court to order the recovery of any profit made through subletting, by awarding Unlawful Profit Orders (UPOs). Any assured tenant convicted of unlawfully subletting their tenancy will lose their security of tenure and the new criminal offence of sub-letting carries a maximum sentence of two years imprisonment and an unlimited fine.

## **2 What is Tenancy Fraud?**

2.1 The following list gives examples of tenancy fraud:

- Not using the home as the only or main home.
- Giving false information in a housing application to improve the chances of getting a property, for example, falsely claiming to be living with a relative or failing to disclose a change of circumstances.
- False succession where the tenancy is taken over, often on the death of the tenant, by someone who falsely claims to have been living there for some time, for example, a person succeeding on the death of a relative or where succession rights have been exhausted.
- Key selling- where the tenant moves out and is paid to hand over the tenancy to someone else.
- Unlawful subletting – for profit or for a friend.
- Right To Buy fraud – falsely claiming the Right to Buy and associated discounts as a result of misrepresenting who lives in the property.
- Obtaining tenancies by deception or misrepresenting housing need to obtain greater priority for housing.
- Abandonment of the property and living elsewhere, either leaving the property empty or selling the keys to someone else, for example where a tenant leaves their own property to move in with a new partner.
- Unauthorised exchange or assignment.

## **2.2 Management**

The organisation will manage tenancy fraud by:

- Encouraging all staff to be aware of, and alert to fraud.
- Supporting staff with training.
- Recognising that tenancy fraud is most likely to be identified by neighbours. The organisation will publicise the impact of fraud, and encourage its reporting.
- Gathering intelligence on incidents of fraud so that we can identify where and when it is most likely to occur.

## **3 Pre-sign Up and During Tenancy**

3.1.1 The organisation will take active steps to prevent fraud by:

- Ensuring that at the time of sign up to the property, the organisation's officers review the application and sign a declaration to confirm it is accurate and reflects their current circumstances and housing needs.
- Taking photographs (or an equivalent form of identification) at the start of new tenancies, tenancy viewings, tenancy sign ups, and new tenant six week visits.
- Carrying out tenancy audits using intelligence about the risk of fraud to trigger those audits.
- When dealing with customers by telephone (for example, when booking repairs or taking rent) the organisation will only speak to the named tenant unless

authorisation from the tenant has been given in writing beforehand. In this instance a home visit will be undertaken to ensure that the tenant is still living at the property and to establish the reasons for allowing another person to deal with their tenancy matters. Any support needs will be assessed.

- Undertaking customer profiling to proactively identify properties which show characteristics of tenancy fraud.
- Ensuring that properties are only allocated to residents who satisfy our allocations criteria. Any applicant providing false or significantly misleading information about their housing or family circumstances will not be eligible for rehousing for a period of twelve (12) months from the point of the application being assessed.
- Carrying out verification checks such as examining proof of identity and ensuring that a person has the Right to Rent as outlined in the Immigration Act 2014.
- Ensuring the Locality Team carry out annual Tenancy Audits, or more frequently if there is intelligence received concerning the risk of fraud.
- Seeking to identify and co-operate with others to prevent housing related fraud, including housing benefit and right to buy/acquire fraud.
- Publicising the impact of fraud, its definitions of fraud, and its commitment to stop fraud.
- Publicising successful outcomes of action taken when fraud has been identified.
- Publicising the Tenancy Fraud Hot Line or how to report details on the organisation's website.

#### **4. Investigations**

4.1 These will include the following:

- Officers will conduct home visits and will check adult occupancy against the photographs and information held.
- Home visits may include, with the tenants consent, looking in each room of the property and checking wardrobes and fridges for evidence of occupancy.
- Checking benefit applications.
- Using credit reference agencies to trace individuals and establish residency.
- Requesting sight of utility bills to check for usage and that the bill payer is the tenant.

#### **5. Enforcement**

- The organisation will take reports of fraud seriously and fully investigate reports. Where there is evidence that fraud is occurring appropriate steps will be taken to stop it be it civil action or criminal action in partnership with local authority partners.
- The organisation recognises that evidence is critical. Neighbours will be supported to give evidence to the organisation.
- Where necessary legal action will be taken to recover possession of the property when fraud has taken place, this will include proceedings for A UPO.
- Advice will be given to innocent parties, particularly sub tenants, who are affected by fraud. The organisation will advise them of their rights and housing options, and seek their support in any action taken.

#### **6. Recovered Properties**

6.1 Properties recovered from fraudulent use will be re-let in line with the organisation's asset management and allocations approach in the case of general needs properties.

## **7. Responsibilities**

- 7.1 All employees should be alert to potential fraud and are responsible for notifying their line manager when they believe that fraud might be occurring.
- 7.2 The Head of Housing is responsible for implementing and reviewing this policy and for ensuring that appropriate procedures are in place.
- 7.3 The Community Engagement team are responsible for investigating reports of tenancy fraud and for taking appropriate action on approval from the Head of Housing.

## **8. Data Sharing**

- 8.1 The organisation will work with local authorities to help them achieve their objectives of tackling benefit fraud and meeting genuine housing need. Should it be necessary for tenancy information to be shared between our partners, we will ensure that this is in line with the legal restrictions of the Data Protection Act 1998.
- 8.2 Any information gathered will only be recorded if necessary to the investigation and any information no longer required will be securely disposed of.

## **9. Health and Safety**

- 9.1 Employees will follow the organisation's Health and Safety Policy and Lone working Policy at all times when managing cases of suspected fraud.

### **Version Control:**

<b>Item</b>	<b>Reason for change</b>	<b>Officer /Manager</b>	<b>Version</b>	<b>Date</b>
1	Original Policy drafted	Internal Auditor/In-house Solicitor	01	November 2015
2	Review of Policy	Director of Housing and Social Care/Head of Housing	02	October 2017

### **Reference Documents:**

Fraud & Bribery Prevention and Response Policy  
Gifts and Hospitality Policy  
Whistle Blowing Policy

### **Legal Framework:**

Bribery Act 2010  
Fraud Act 2006  
National Housing Federation Code of Conduct 2012  
National Housing Federation Excellence in Governance Code (2010)  
Housing Act 1985 as amended Housing Act 1988 as amended The Prevention of Social The  
Prevention of Social Housing Fraud Act 2013  
Law of Property Act 1925  
Data Protection Act 1998