

tenancy fraud policy

Responsible Officer:	Assistant Chief Executive (Neighbourhoods)
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Regulatory Code:	Governance & Financial Viability Standard
Scope:	Group Wide

Tenancy Fraud Policy

1.0 Introduction

- 1.1 Incommunities recognise the importance of tackling tenancy fraud and acknowledges the impact it has on residents and communities. This policy sets out the organisation's commitment to tackle tenancy fraud and the approach that Incommunities will take to do this.
- 1.2 The Prevention of Housing Fraud Act 2013 makes subletting the whole of a social rented dwelling a criminal offence. Along with this Incommunities has a regulatory obligation under the Homes and Communities Agency's Tenancy Standard to ensure that 'homes continue to be occupied by the tenant to who it was let in accordance with the requirements of the relevant tenancy agreement' and 'to publish clear and accessible policies that outline Incommunities approach to tackling tenancy fraud'.
- 1.3 The approach that Incommunities will take to tackling tenancy fraud includes; prevention, detection, pursuing perpetrators of tenancy fraud, raising awareness and supporting vulnerable sublettees.

2.0 Statement of Intent

- 2.1 Incommunities is committed to preventing and detecting housing tenancy fraud and will take appropriate action to identify and remedy instances of housing tenancy fraud.
- 2.2 Incommunities provides social housing to those in housing need using the frameworks set out in the allocation policies of Incommunities group. Those who commit tenancy fraud deprive other people who are in genuine housing need of housing. Incommunities supports social housing being occupied by those in most housing need.

3.0 Policy

3.1 What is Tenancy Fraud?

- 3.1.1 Fraud is defined as 'the deliberate use of deception or dishonesty to disadvantage or cause loss (usually financial) to another person or party'. Tenancy fraud occurs 'when a housing association or council home is occupied by someone who is not legally entitled to be there or has obtained use of the property fraudulently', Fraud Advisory Panel 2015. The main categories of tenancy fraud include:
 - 3.1.2 **Obtaining a tenancy by deception**

Customers applying for housing confirm that the information given is correct. Obtaining a tenancy by deception can include; providing false information, as part of a homeless application or to join the housing register, failing to update personal information as a result of a change of circumstances or using false documents such as forged identification or claiming another person's identity.

3.1.3 Unauthorised subletting

The Prevention of Social Housing Fraud Act 2013 states that an offence is committed if a tenant either sublets or parts with possession of the home (or part of it without the landlords consent) and know this is a breach of the agreement. It also creates a more serious offence where the tenant not only knows it is a breach of the tenancy agreement but does so dishonestly.

3.1.4 Non Occupation and Absence

Fraud takes place where the tenant is not using the property as their only or principal home. They may use the property infrequently as an address to claim credit or benefits from, or they may abandon the property entirely. Where non-occupation is suspected, an investigation must take place to ensure the lawful tenant has no intention to return to the property.

3.1.5 Key Selling

Key selling involves the tenant leaving the property and giving the keys to someone else in return for a lump sum payment or favour. Once the keys have been exchanged the person left living in the property is an illegal occupier.

3.1.6 False Succession

Succession takes place where a tenant dies and a qualifying person succeeds to the tenancy. Succession is considered fraudulent when; the tenant dies and the remaining occupier does not automatically qualify for succession or inform the landlord or the remaining occupier knowingly gives the landlord misleading information to get the landlord to grant the succession.

3.1.7 Unauthorised Mutual Exchange and Assignment

An assignment is considered to be fraudulent when one or more tenants assign their tenancies by way of swapping homes without obtaining written consent from the landlord or the tenant gives their tenancy to a partner, friend or family member without consent from the landlord allowing them to avoid the assessment for social housing.

3.1.8 Fraudulent Right to Buy or Right to Acquire Application

Providing misleading information on an application to buy a home through the RTB or RTA schemes to gain a greater discount or to get the landlord to accept an application that would not otherwise have been approved.

3.2 Why is Tenancy Fraud Unacceptable?

3.2.1 Tenancy fraud has a damaging affect for Incommunities and our residents because:

- It can prevent people in genuine need accessing housing
- Those in greatest need may be unable to access stable tenancies
- Incommunities are not able to make best use of our stock

- Incommunities may have more difficulty gaining access to properties to carry out essential maintenance work putting at risk the health and safety of occupiers and causing depreciation to stock value
- Higher risk of unauthorised modification and damage to property
- Homes may be overcrowded or under occupied
- There is an increased risk of properties being used for illegal purposes
- Disruption to local communities caused by crime and anti-social behaviour

3.3 Prevention

3.3.1 Incommunities will request photographic proof of identification from all new tenants, where available. This will be stored electronically within their tenancy account; so as to be available for future reference should a case of tenancy fraud be suspected.

3.4 Detection

3.4.1 Incommunities will take a risk based approach to the detection of tenancy fraud and will focus our procedures for detection on the more lucrative types of fraud in our district, such as fraudulent Right to Buy/Acquire Applications, successions and in areas where market rent is higher than social rent.

3.4.2 Fraud detection will be on a case by case basis. The initial detection work will be completed as part of the Neighbourhood and Income Officers day to day work; as and when fraud is suspected or reported by third parties, the officers will conduct tenancy audit visits to check that the residents in the property are the intended occupants.

3.4.3 Specific cases of fraud such as fraudulent Right to Buy/Acquire and serious cases requiring further investigation will be conducted by the Legal and Governance Team.

3.4.3 Incommunities Group will investigate all reports of suspected tenancy fraud in accordance with the Prevention of Social Housing Fraud Act 2013.

3.5 Pursue

3.5.1 Where a case of suspected tenancy fraud is investigated, the evidence collated will be reviewed to assess whether an allegation of tenancy fraud (in line with the categories listed previously) can be substantiated.

3.5.2 Where it is believed that evidence has been obtained to support a case of tenancy fraud, the resident will be notified and they will be requested to provide an explanation regarding the use of their home. If the evidence that they provide does not counter the evidence collated, legal action to recover possession of the property will be undertaken.

3.5.3 Incommunities Group's approach to unauthorised occupants, in terms of both advice and assistance offered to them, will be determined by their particular circumstances.

3.6 Awareness

- 3.6.1 We will promote the policy and the definitions (set within this document), of fraud with tenants and residents, using the @Home Magazine and Social Media. We will also look to develop poster campaigns in areas that we identify there to be a potential risk.
- 3.6.2 A procedure to support the policy will be shared with staff across the organisation.

3.7 Support of Sub-lettees

- 3.7.1 Sub-tenants may not be aware that they are using the property unlawfully and may be vulnerable and/or victims of their housing situation. Sub-tenants could be subject to eviction by the tenant with little or no notice when the tenancy fraud is investigated.
- 3.7.2 Incommunities will review the sub-tenants circumstance and look to deal sensitively with their situation.

5.0 Implementation

- 5.1 The policy will be implemented once the procedural guidance is completed. Training will be given to all staff working within Neighbourhood Services and Building Services.

6.0 Monitoring

- 6.1 Measures will be developed and reported to the Income and Neighbourhood Directors on a bi-annual basis for their consideration. The measures will be agreed to report on issues that we understand to be the risks associated with this policy and will be detailed within the procedural guidance.
- 6.2 In line with 5.4 of the Fraud & Corruption Policy (2016), Incommunities will maintain a Fraud Register, which records all incidents of suspected fraud and corruption, investigations and outcomes. Reports of tenancy fraud will be incorporated in with this reporting.

7.0 Associated Policies and Procedures

- 7.1 This policy should be read in association with the following policy and procedures:
- Fraud and Corruption Prevention Policy
 - Right to Rent Procedure (Sadeh Lok)
 - Allocations Policy
 - Abandoned Properties Policy
 - Assignment Policy
 - Starter Tenancy Policy
 - Succession Policy

8.0 Review

- 8.1 This policy will be reviewed bi-annually or sooner if there is a fundamental change of legislative or regulatory provisions or if other best practice information becomes available.