

TENANCY FRAUD POLICY



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1. BACKGROUND AND PURPOSE

- 1.1. Tenancy fraud, whilst recognised as common place in larger cities has to some extent been perceived as a low-level housing management risk in more rural situations.
- 1.2. Cornwall Council and CHL share the objectives of making the best use of the housing stock it owns and manages; and effective use of public funds, both of which have the potential to be directly impacted by tenancy fraud.
- 1.3. Whilst CHL seeks to provide excellent housing management services as one of the corner stones of its management agreement with Cornwall Council, it also has a requirement to deal effectively with tenancy fraud to ensure that a scarce public resource is used to provide accommodation for those in greatest need.
- 1.4. The purpose of this policy is to set out CHL's approach to dealing with housing fraud.

2. WHAT IS TENANCY FRAUD?

- 2.1. For the purpose of this policy, CHL define Tenancy Fraud according to the Audit Commission's interpretation as 'any intentional false representation, including failure to declare information or abuse of position that is carried out to make a gain, cause loss or expose another to the risk of loss'.
- 2.2. Tenancy fraud can present itself in various forms and at any stage during the tenancy life cycle. It can include:
 - Fraudulently obtaining a tenancy (e.g., through misrepresenting circumstances or identity)
 - Non occupation by the tenant as their sole and principle home.
 - Unlawful subletting, (e.g., subletting the whole property to a single household or multiple sublets within one property)
 - Wrongly claimed successions.
 - Unauthorised assignments (e.g., mutually exchanging without landlord authority)
 - 'Key selling', (where the tenant leaves the property and passes on the keys in return for a one-off lump sum payment or favour).
 - Not notifying the landlord when the tenant moves out or passes away.



- 2.3. If any tenant is concerned that they may, inadvertently, be in breach of their tenancy agreement, they should contact CHL immediately for guidance on how to remedy the situation.

3. WHY IS TENANCY FRAUD UNACCEPTABLE?

- 3.1. Tenancy fraud has a damaging impact because:

- It can prevent people in genuine housing need accessing Cornwall Council and CHL homes.
- It prevents us making best use of the housing stock CHL manage and own.
- Some applicants could spend longer in unsatisfactory, overcrowded or temporary housing if they are prevented from accessing housing because it is blocked due to tenancy fraud.
- There is a greater risk of the property being used for illegal purposes, in addition to the tenancy fraud.
- There may be a greater risk of damage to the property due to possible modifications to make it suitable for subletting to a number of tenants.
- CHL may have difficulty gaining access to the property to carry out essential health and safety works such as gas safety checks, potentially putting both occupants and neighbouring properties at risk.
- Unauthorised tenants may be vulnerable to increased rents and illegal eviction due to being unaware of their status. They may also risk homelessness if the tenancy fraud is detected.

4. SCOPE

- 4.1. This policy applies to all tenancies managed by CHL, which includes the housing stock it owns and manages and also covers temporary accommodation provided as part of the Rough Sleepers Accommodation Project which are let through non-secure tenancies.
- 4.2. Potentially fraudulent homeless applications are outside the scope of this policy and such cases will continue to be investigated by our partners at Cornwall Council.

5. POLICY STATEMENT

- 5.1. CHL is committed to ensuring that tenancy fraud within the housing stock it owns and manages is tackled.



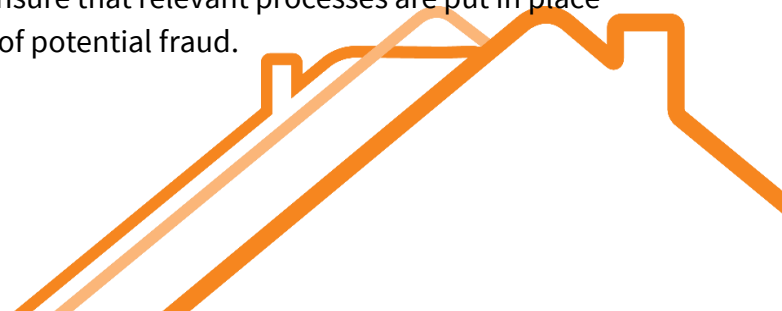
- 5.2. This policy lays out how CHL will seek to acknowledge, detect and pursue cases of tenancy fraud, adopting counter-tenancy fraud measures based on good practice across the sector to ensure that tenancy fraud within the stock it manages and owns is tackled.
- 5.3. CHL will build a culture where all staff recognise the part that they can play in preventing and detecting tenancy fraud and ensure easy reporting mechanisms for both staff and customers.
- 5.4. CHL recognise both the financial impact of tenancy fraud, and also the social cost to homeless and Homechoice applicants in high housing need, who could otherwise have been housed in those properties.
- 5.5. This policy will facilitate changes to working practices that will positively impact on the reduction and prevention of tenancy fraud in the stock CHL own and manage.

6. ACKNOWLEDGE RISK

- 6.1. CHL accept that an important aspect of tenancy fraud control is acknowledging that there is the potential for tenancy fraud to be happening in the stock CHL own and manage.
 - CHL will evaluate how CHL assess the risk of tenancy fraud by regularly reviewing what checks and measurements are already in place, ensuring that any risk assessments are realistic.
 - CHL will ensure that all staff are made aware of the potential for tenancy fraud and its negative outcomes to maximise staff reports facilitating robust investigation of suspected incidents.
 - CHL will publicise the Tenancy Fraud Policy to our customers to encourage community buy in and engagement in order to deal with any suspected incidents. By raising awareness of the potential for tenancy fraud and promoting our policy CHL feel customers will be more likely to question any suspicious issues and to refer cases to us to investigate.

7. SEEK TO PREVENT AND DETECT

- 7.1. It is accepted that the cheapest and most effective form of counter-tenancy fraud activity is prevention, and CHL will adopt robust measures to maximise our preventative capability. CHL will also ensure that relevant processes are put in place to help to facilitate the early detection of potential fraud.



- CHL will provide appropriate training to staff to ensure they have the skills to identify possible situations of tenancy fraud.
- CHL will ensure that processes around validation and tenancy checks are robust and fit for purpose, including at allocations stages.
- CHL will risk assess/evaluate all reports of potential tenancy fraud and undertake investigative activity in all appropriate cases.
- CHL will publicise what processes will be followed to identify tenancy fraud to deter potential incidents of fraud.
- In association with partners at Cornwall Council, CHL will aim to develop public awareness of the consequences of tenancy fraud/misuse and introduce mechanisms for the reporting of suspect cases.

8. PURSUE CASES

8.1. Results of counter-tenancy fraud work undertaken by other registered providers recorded that once fraud investigations were underway; a high number of tenants returned their properties before legal action was instigated. Returning the property is one of the main aims of counter-tenancy fraud, as it is a cost-effective way of resolving the issue without recourse to possibly costly court action.

8.2. Where a tenant does not surrender a tenancy:

- CHL will seek to recover the property through civil action by serving Notices to quit or Notices of Seeking possession as appropriate dependant on the tenancy type. Where appropriate, and using a balanced approach, CHL will seek possession through the Court process.

8.3. In all cases where the evidence is such that criminal offences are considered to have been committed then:

- CHL will, in partnership with Cornwall Council, consider pursuing criminal action under the Prevention of Social Housing Fraud Act 2013. Any prosecutions will be led by Cornwall Council.
- CHL will, in partnership with Cornwall Council, publicise successful prosecutions in order to highlight to others that tenancy fraud will not be tolerated, and in doing so deter others from committing offences.

8.4. In order to meet the aims of the policy:



- Cornwall Homechoice applicants may be required to provide proof of their current address at the application stage. This includes proof of address for any household member residing at another address. Proof of children's residency will also be required.
- Proof of identity will be requested at the property viewing.
- Proof of identity will be required at the tenancy sign up appointment, in line with the tenancy sign up check list.
- The rights and responsibilities around occupation will be made clear to every new Cornwall Council/CHL tenant at the sign-up appointment.
- New tenant visits take place within the first 12-months of a new tenancy as part of the introductory tenancy process and will be used to check that all correct household members have taken up residency.
- CHL will make available a number of ways in which the public can report suspected tenancy fraud.
- CHL will take reports of potential tenancy fraud seriously. CHL will evaluate and risk assess all reports, undertake investigations when appropriate and take punitive action in relevant cases.
- CHL will carry out regular awareness campaigns about the impact of tenancy fraud, providing information on how anyone can report suspected incidents.
- During the life of the tenancy there will be sound mechanisms in place to detect and identify tenancy misuse, for example data matching exercises such as the National Fraud Initiative.

9. BALANCED APPROACH

9.1. CHL will take a balanced and proportionate approach to tackling social housing tenancy fraud. CHL will consider a range of factors in deciding the most appropriate action to be taken in each instance. Each assessment will take account of all relevant factors including:

- The length of time over which any fraud was perpetrated.
- The wilfulness with which the person committed the offence and the contrition subsequently displayed.
- Any mitigating circumstances.
- The evidence of intent of the individual to commit tenancy fraud.
- Any vulnerability of the tenant, or any households involved in the fraud.
- The potential for adverse impacts on households, or unintended consequences of enforcement action.
- Whether or not it is in the "public interest" to prosecute.



- Whether or not sufficient legally admissible evidence exists to provide a realistic prospect of conviction (has the “evidential sufficiency test” been satisfied?)
- The Code for Crown Prosecutors.

10. EXPECTED BENEFITS

- 10.1. Tackling tenancy fraud will enable the recovery of properties that are unlawfully occupied, therefore maximising appropriate use of limited housing stock.
- 10.2. Implementing the policy will build public trust and community confidence in the fairness of Cornwall Council’s Homechoice system.
- 10.3. Improving detection and prevention of fraud contributes to protecting the public purse.

11. REFERENCE DOCUMENTS

Legal influences on this policy

- Prevention of Social Housing Fraud Act 2013
 - Housing Act 1985, 1988, 1996, 2004
 - Family Law Act 1996
 - Domestic Violence, Crime and Victims Act 2004
 - Domestic Abuse Act 2021
 - Equality Act 2010
 - Disability Discrimination Act 1995
 - Human Rights Act 1998
 - Race Relations Act 1976, 2000
 - Children’s Act, 1989
 - GDPR and Data Protection Act, 1998, 2018
 - Local Government Act 1972, 2000
 - Regulation of Investigatory Powers Act, 2000
 - Protection from Eviction Act 1977
 - The Localism Act 2011
- 11.1. CHL Limited reserves the right to use any subsequent amendments to these acts and any other legislation introduced that relates to Anti-Social Behaviour, Abuse or Hate Crime.



Non-legal influences on this policy

- The Homes and Communities Agency's regulatory Framework for Social Housing in England 2012
- Fighting Fraud Locally: The Local Government Fraud Strategy
- Audit Commission: Protecting the Public Purse 2012



DIVERSITY & INCLUSION

CHL are committed to treating all people with fairness and respect. CHL aim to create an inclusive environment where people are treated with dignity, inequalities are challenged, and CHL anticipate and respond positively to different needs and circumstances to enable individuals to achieve their potential and foster good relations within the communities CHL serve. CHL want to be recognised as an organisation delivering fair, inclusive, accessible services and an employer and partner of choice.

When applying this policy, CHL act sensitively towards the diverse needs of individuals and to reduce discrimination and harassment by making reasonable adjustments such as:

- eliminating discrimination – by providing support to those who need it and information in accessible formats and languages on request.
- tailoring the policy to meet both the specific needs of the individual, including those with additional support needs, and the diverse needs of the wider community.
- advancing equality of opportunity – treating all tenants fairly
- fostering good relationships – listening to customers and responding appropriately
- compliant with all aspects of Equality & Diversity legislation, and specifically the Equality Act 2010.



Contact us:

Email: **info@cornwallhousing.org.uk**

Telephone: **0300 1234 161**

By letter: **CHL, Chy Trevail, Beacon Technology Park, Bodmin, PL31 2FR**

www.cornwallhousing.org.uk

Alternative formats:

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