

Tenancy Fraud Policy

1. Introduction

1.1 Background

This policy supports Broadland District Council's commitment to making the best use of the housing stock (Temporary Accommodation (TA)) we manage. This means we are required to investigate and deal with any potential instances of tenancy fraud.

The government has drawn attention to the issue and has expressed concern that tenancy fraud costs the country an estimated £900m per year.

1.2 Legal Framework

Broadland District Council's Tenancy Fraud Policy complies with the following legislation:

- Prevention of Social Housing Fraud Act 2013
- Housing Act 1985
- Housing Act 1988
- Housing Act 1996
- Theft Act 1968
- Proceeds of Crime Act 2002
- Data Protection Act 2018
- The UK GDPR (General Data Protection Regulation)
- Fraud Act 2006
- Bribery Act 2010
- Criminal Procedures and Investigation Act 1996
- Public Interest Disclosure Act 1998 (PIDA)
- Police and Criminal Evidence Act 1984 (PACE)
- Forgery and Counterfeiting Act 1981
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Human Rights Act 1998

1.2.1 Key Legislation

The Fraud Act 2006 states that a person is guilty of fraud if he is in breach of the following:

- Fraud by false representation
- Fraud by failing to disclose information

- Fraud by abuse of position

A person who is found guilty of fraud is liable, on conviction to a maximum sentence of 10 years imprisonment and/or a fine.

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

- the tenant sub-lets or parts with possession of part or all of the property
- the tenant ceases to occupy the property as their only or principal home
- the tenant knows this conduct is a breach of a term of the tenancy

The Act gives local authorities (Broadland District Council) powers to prosecute in cases of unlawful subletting and enables the court to order the recovery of any profit made through unlawful 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 subletting carries a maximum sentence of two years imprisonment or a fine (or both).

Housing Act 1996 – It is an offence under section 171 of the Act to make a false statement or withhold information in relation to allocations. It is an offence under section 214 to make a false statement, withhold information or fail to declare a change of circumstances in relation to homelessness.

Theft Act 1968 – A person is guilty of theft if they dishonestly appropriate property belonging to another with the intention of permanently depriving the other of it.

1.3 Scope of the Policy

This policy provides a framework for Broadland District Council to identify and tackle tenancy fraud prior to and during a tenancy and applies to all existing and potential customers. Broadland District Council will work with all stakeholders, including local communities and local and national partners to prevent and stop tenancy fraud. These include Norfolk Police, Norfolk County Council, and other local authorities and registered social landlords with whom we will share information in order to detect and prevent criminal behaviour.

The policy outlines the Council's commitment to dealing with tenancy fraud. In developing the policy, Broadland District Council recognises that:

- the Council must ensure the fair use of the housing stock (TA) we manage
- tenancy fraud can deprive those in most need from accessing housing (TA) by limiting the number of properties available.

2. Policy Statement and Definitions

2.1 Policy Statement

Broadland District Council aim to ensure that those in greatest need have fair access to TA by tackling fraudulent occupation and misuse of our stock.

We aim to achieve this by preventing and detecting fraud and taking effective action. When tenancy fraud is identified, Broadland District Council will take action to end the fraudulent activity and recover the property, where appropriate, and share information regarding fraudulent activity with other organisations. We will do so in line with our legal obligations in respect of the Data Protection Act 2018 (DPA 2018), the UK General Data Protection Regulation (UK GDPR) and YHN's Privacy Notice and Fair Processing Notice(s).

This policy is applicable equally to all regardless of:

- Age
- Disability
- Gender reassignment
- Marriage or civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

3. Our Approach

Broadland District Council aims to reduce tenancy fraud by working proactively to prevent, detect and investigate tenancy fraud.

3.1 Prevention and Detection

Some of the ways Broadland District Council prevent and detect tenancy fraud include:

- Employing a robust verification process and eligibility checks, when reviewing applications for housing.
- Requesting that declarations are signed to confirm true and accurate information has been provided and where applicable, that the Council will be kept up to date by applicant(s) regarding changes of circumstances.

- Verifying identity evidence supplied by applicants.
- Confirming the identity of anyone claiming to be a tenant prior to disclosing information that could be misused for the purposes of fraud if disclosed to someone other than the tenant.
- Undertaking checks to ensure that the property is being used and maintained within the terms of the licence agreement.
- Carrying out checks to verify information provided by housing applicants and licensees.
- Pro-actively investigating reports of tenancy fraud.
- Sharing information with a number of organisations in accordance with relevant privacy policies and data protection legislation.

3.2 Remedies and Sanction

The remedies and powers available to Broadland District Council include:

- Refusal of an allocation within the terms of the allocations policy or withdrawal of an offer of TA.
- Issue a written warning.
- Issuing possession, injunction or other tenancy enforcement proceedings. Issuing proceedings using the powers available to Broadland District Council through the Prevention of Housing Fraud Act 2013 including criminal prosecution. Broadland District Council can together with Norfolk Police pursue a criminal prosecution. If convicted a tenant may face a fine or imprisonment.
- Undertaking of disciplinary action.

Where evidence of fraud, bribery, misappropriation or theft is discovered, the Senior Housing Manager will decide whether to refer the matter to the Police.

3.3 Reporting Tenancy Fraud

Tenancy fraud can be reported to Broadland District Council in the following ways:

- By emailing housing.advice@southnorfolkandbroadland.gov.uk

4. Roles and Responsibilities

Broadland District Council does not tolerate fraud.

Tenancy Fraud can occur before a tenancy is granted or during the course of tenancy and the vigilance of frontline staff including those in the Housing Options and Support Teams is vital the Council's efforts to identify and address tenancy fraud.

All staff should be alert to fraudulent activity and report any suspicion of fraud or irregularity.

The Financial Regulations provide the framework for financial control. Under Financial Regulations, the Managing Director and Directors are, for the areas under their control, responsible for ensuring that the arrangements, guidelines, and procedures for the proper administration of financial affairs are operated in accordance with Financial Regulations.

5. Equality and Diversity

This policy complies with Broadland District Councils:
[equality-and-diversity-policy \(southnorfolkandbroadland.gov.uk\)](https://www.southnorfolkandbroadland.gov.uk/equality-and-diversity-policy)

6. Responsibility and Monitoring of the Policy

Responsibility for monitoring of this policy lies with the Housing & Benefits Manager responsible for managing the temporary accommodation and reporting to the Head of Housing and Benefits.

7. Review

This policy will be reviewed if there are significant changes required in the light of best practice and any changes to legislation and Government guidance.