



Tenancy Fraud and Unauthorised Occupants Policy

1.0 Purpose and scope

In our effort to meet the demand for housing and provide an effective day to day housing management service, we have implemented measures to ensure that our accommodation is occupied by the authorised household. This policy sets out the measures we take to prevent, detect and tackle tenancy fraud.

This policy is group wide and applies to all residential properties.

2.0 Definitions

Tenancy fraud is when:

- An unauthorised occupant resides in the property
- A resident fails to occupy the property as their only and principal home
- False information is provided in order to obtain an occupancy agreement.

An unauthorised occupant can be:

- A lodger, partner or family member who remains in occupation after the resident has vacated or dies and is not pursuing the right to succeed
- A sub-tenant who rents the whole of the property from a tenant (unlawful subletting)
- A sub-tenant or lodger who occupies part of the property without the tenant obtaining written permission (breach of tenancy)
- A sub-tenant who rents part or the whole of the property from a leaseholder without the leaseholder obtaining written permission, as specified by the terms of the lease
- Someone who is assigned a tenancy without our permission.

3.0 Permission to sublet or take in a lodger

Permissions to sublet or have a lodger are granted in line with their occupancy agreement and our Lodgers and Subtenants Policy. Where permission to sublet is not granted, we consider any subtenant or lodger to be an unauthorised occupant.

4.0 Preventing tenancy fraud

We maintain comprehensive and accurate records of permitted lodgers and subtenants. Residents who have permission to keep a lodger or sublet are required to inform us of any change in their circumstances. All residents are required to inform us if they are going away from their property for a significant period of time.

We carry out targeted campaigns to highlight the consequences of tenancy fraud and publicise successful cases. Information about tenancy fraud is also available on our website.

We aim to deter residents from committing tenancy fraud by explaining, when signing a new occupancy agreement, that it is a breach and under certain circumstances a criminal offence.

We check that all applicants are eligible for the housing they are applying for by validating their identity before signing an occupancy agreement, verifying the household's circumstances and checking ownership/occupation history.

5.0 Detecting tenancy fraud

We take proactive steps to detect tenancy fraud and carry out targeted visits to properties in which we have suspicions tenancy fraud is taking place.

We thoroughly investigate reports from neighbours or staff about tenancy fraud, which also involves carrying out unannounced visits to the property. We use information we have on file to cross-check the occupant's details.

We have robust processes in place for recognising indicators of tenancy fraud. Working closely with external agencies such as the local authority and the National Anti-Fraud network, we obtain data which allows us to gather the evidence required to take action against tenancy fraud. Any information that we share or obtain is subject to data protection legislation.

If we suspect that a resident has abandoned their property, we follow our Absent Tenants and Abandonment Policy. We carry out investigations to determine whether this is the case and consider a property abandoned if we conclude that the resident has no intention to return.

6.0 Taking action against tenancy fraud

Before taking action against tenancy fraud, we first consider the circumstances of the case and consider whether it would be reasonable to retrospectively grant permission for the resident to sublet, have a lodger or assign their tenancy.

Where we have evidence of tenancy fraud and have decided to seek possession of the property, we notify the legal tenant and ask them to end their agreement with us. We still consider whether further action could be taken, for example, whether we can apply for an Unlawful Profit Order where the tenant has financially gained from subletting.

In cases of tenancy fraud by a shared owner leaseholder, we first ask them to end the agreement with their subtenant and provide us with evidence of this.

If the occupier refuses to voluntarily reach an agreement with us, we take swift action to recover possession of the property. Where legal action has been successful, court costs are also sought.

In certain circumstances the local authority may also prosecute tenants who have sublet. We work in conjunction with our partners who may lead on a tenancy fraud investigation and will support them if they pursue action against our resident in line with their own policies.

Where somebody has obtained a tenancy fraudulently, we will take possession proceedings.

7.0 Unauthorised occupants

We recognise that unauthorised occupants are likely to have been victim to paying increased rent and are put in a vulnerable position once we have gained possession. We signpost unauthorised occupants to housing advice. In line with our safeguarding policies, we also refer unauthorised occupants who are considered adults at risk to support services and raise safeguarding concerns with the local authority where necessary.

We are conscious that our residents may become a victim of associated risks such as cuckooing, which we will acknowledge, escalate and share the information with third parties. We also recognise that we cannot harass unauthorised occupants and are mindful that we cannot illegally evict them.

Where we become aware that an unauthorised occupant occupies the whole of the property, we reserve the right to apply a use and occupation charge and inform them that any payment received is for this charge only.

8.0 Our approach

In writing this policy we have carried out assessments to ensure that we are considering equality, diversity and inclusion. If you'd like a copy of the assessment, please email your request to policy@nhq.org.uk

9.0 Reference

- **Law of Property Act 1925**
- **Prevention of Social Housing Fraud Act 2013:** criminalises the unauthorised subletting of a dwelling-house (which may include a house or a part of a house) by secure/flexible and assured/assured shorthold tenants of local authorities and private registered providers of social housing (PRPSHs).
- **Section 80 of the Housing Act 1985** states that a tenant must use their home as their “only or principle home”
- **Housing Act 1988 as amended**
- **Data Protection Act 2018 and GDPR:** We will use the powers within the Data Protection Act 2018, Section 29, in relation to prevention and detection of crime, to request and share information relevant to any tenancy fraud investigation. Additionally, we follow up on the Statutory guidance of the [National Fraud Initiative privacy notice](#), which sets out how

we will use personal data, and rights. It is made under Article 14 of the UK General Data Protection Regulation (GDPR).

- **Protection from Eviction Act 1977** protects residents' rights with periodic licence or tenancy entitlement to a minimum of 4 weeks' notice to quit from the landlord.

Document control

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Version Control

Date	Amendment	Version
October 2019	New NHG policy	1.0
January 2023	Policy desktop review- clarified on the legislative position and reviewed our approach to detecting tenancy fraud.	2.0