



YHN's Tenancy Fraud Policy 2015



Your Homes
Newcastle

1. Introduction

1.1 Background

Your Homes Newcastle (YHN) is responsible for managing the housing stock and allocations for Newcastle City Council (NCC). 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.

In recent years, many social landlords have stepped up their efforts to tackle fraud in their stock. The government has drawn attention to the issue and has expressed concern that tenancy fraud costs the country an estimated £900m per year. Legislation has been introduced to strengthen the powers of social housing providers to help tackle tenancy fraud.

1.2 Legal Framework

1.2.1 Breach of tenancy – grounds for possession

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

- Subletting all of your tenancy or part of it without the prior consent of your Homes Newcastle on behalf of your landlord
- Obtaining a tenancy by deception or deliberately misrepresenting your circumstances so that you are allocated a property
- Deliberately misrepresenting your circumstances in order to obtain approval for a mutual exchange,
- Deliberately misrepresenting your circumstances in order to succeed to or be assigned a tenancy

1.2.2 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. YHN may involve Northumbria Police or Newcastle City Council in bringing criminal proceedings against an individual(s) where it is satisfied that there appears to have been criminal intent.

1.2.3 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 or,

- the tenant has moved out and the tenant knows the sublet is a breach of their tenancy.

The Act gives local authorities (Newcastle City Council) 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.

1.3 Scope of the policy

This policy provides a framework for YHN, acting on behalf of NCC, to identify and tackle tenancy fraud prior to and during a tenancy and applies to all existing and potential customers. YHN will work with all stakeholders, including local communities and local and national partners to prevent and stop tenancy fraud. These include Northumbria Police, Newcastle City 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 YHN's commitment to dealing with tenancy fraud. In developing the policy, YHN recognises that:

- tenancy fraud can deprive those in most need from accessing social housing by limiting the number of properties available.
- whilst identified tenancy fraud is rare, national studies suggest it is an underreported crime and may be more widespread than we know. – Government estimates suggest that outside London, 1% of social housing in England could be occupied fraudulently.
- YHN must ensure the fair use of the housing stock we manage on behalf of the City Council, Byker Community Trust and Leazes Homes.

2. Policy statement and definitions

2.1 Policy Statement

YHN aim to ensure that those in greatest need have fair access to social housing by tackling fraudulent occupation of our stock.

We aim to achieve this by preventing and detecting fraud and taking effective action. When tenancy fraud is identified, YHN 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 1998 and the consent given by all applicants for housing managed by Your Homes Newcastle as part of the application process.

The Data protection Act 1998 allows disclosure to third parties:

- for the prevention or detection of any unlawful act
- for protecting the public against dishonesty or malpractice

The process by which applications for housing are made to YHN contains the following statement which must be signed by all applicants before they are housed:

“Information given in this application may be shared with other bodies for the prevention of crime including fraud. Unless otherwise stated the information will only be used for the purposes of housing services. By signing this declaration you confirm that you have read and understood this section.”

This policy applies equally to all customers regardless of:

- age,
- disability,
- gender reassignment,
- marriage or civil partnership,
- pregnancy and maternity,
- race,
- religion or belief,
- sex,
- sexual orientation,

2.2 What is tenancy fraud?

YHN considers that the intentional misrepresentation of who is occupying a tenancy is tenancy fraud. The following list is not exhaustive but contains examples of tenancy fraud:

- obtaining tenancies by deception or misrepresenting housing need to obtain greater priority for housing
- unlawful subletting – for profit or for a friend
- succession and assignment fraud – misrepresenting circumstances to meet the legal criteria in place to succeed to a tenancy previously held by another family member
- Key selling – where the tenant moves out and is paid to hand over the tenancy to someone else
- Housing Benefit and other tenancy related welfare benefit fraud – using the tenancy to obtain housing benefit or other welfare benefits
- Right To Buy fraud – falsely claiming the Right to Buy and associated discounts as a result of misrepresenting who lives in the property
- other criminal activity associated with tenancy fraud – illegal and /or immoral use of property, identity theft etc.
- not using the property as the only or main home
- not notifying YHN or NCC when the tenant dies or moves out

2.3 What is not tenancy fraud?

With the prior consent of YHN tenants are able within the terms of their tenancy agreement to rent out a spare room or part of the property. They are also able to take in a lodger.

3. Guidance for Staff

3.1 Guidance overview.

YHN aims to reduce tenancy fraud by working proactively to prevent and detect fraud before and during a tenancy. Where evidence exists that suggests tenancy fraud has or is taking place, YHN, working together with NCC and other national and local partners, will share information to investigate, identify and take action against those committing tenancy fraud. Action against those involved in fraud may include possession proceedings and criminal prosecution. The guidance below identifies actions to be taken by YHN staff before a tenancy starts, and action during the course tenancies that are intended to prevent and detect tenancy fraud. Where appropriate links are provided to other policy and procedural guidance and further advice should be sought from your manager in the investigation of instances of tenancy fraud. Further information for existing tenants and applicants for housing managed by Your Homes Newcastle is provided below at Appendix 1.

3.2 Stage 1 Pre-tenancy – checking and verifying applications

As part of the verification process and eligibility checks, when a customer applies to Tyne and Wear Homes they must provide all relevant information requested and provide certain documents to prove identification, including photographic identification, which is stored in their electronic application and house file following an offer of accommodation. If their circumstances change, they must advise Tyne and Wear Homes as soon as is reasonably possible. Information is accessible to other local authorities and registered social housing providers participating in the scheme and in certain circumstances with the Police in accordance with the lettings policy and Safer Estates agreement. Any confidential or restricted information will be held securely within each organisation and only shared in line with the Data Protection Act.

Anyone knowingly or recklessly making a statement which is false or failing to provide relevant information in order to obtain accommodation could be committing a criminal offence and may not qualify (become eligible) for the scheme. Misrepresenting family circumstances in order to gain the right to succeed or to be assigned a tenancy may also be regarded as fraud. Full information and guidance to staff dealing with such requests including the type of information required from potential successors or assignees is contained in our [direct Exchanges and succession policy and procedures](#). If a property offer is made based on

inaccurate or out-of-date information, it may be withdrawn, or if the tenancy has been granted, YHN may refer the case for legal action and possession proceedings. Full guidance is provided by [the allocations and lettings policy and procedures](#).

3.3 Stage 2 During the tenancy

It is a condition of the tenancy agreement that a tenant should occupy the property as their sole and principal home. Where tenancy fraud takes place, YHN will take appropriate action to stop the fraudulent activity as quickly as possible and any further action, as required.

YHN has a range of procedures in place which can help identify fraud during a tenancy.

These include:

- Abandoned and unoccupied properties. Properties that are apparently abandoned or unoccupied may come to the attention of YHN staff by their own discovery or reports from other parties (neighbours, other agencies etc.). Staff guidance is provided by the [abandoned properties procedure and checklist](#).
- The National Fraud Initiative. YHN, working with NCC, participate in the National Fraud Initiative to prevent and detect fraud, by checking YHN's records against those of other organisations across the country, investigating concerns and dealing with queries from other participating bodies.
- Visits to properties may be made to ensure that the lawful tenant is resident at their home and fulfilling the requirement that the address is their only or principal home.
- Reports from the public. YHN will respond to all reports from the public, by investigating reports, recognising where tenancy fraud has taken place and taking appropriate tenancy enforcement action. Members of the public are able to report tenancy fraud direct to YHN staff at any housing office or other YHN outlet.
- Regional Fraud Hotline. YHN encourages reports and will enable concerns to be reported confidentially and with the confidence that investigations will be made. Calls to the Fraud Hotline, are received through the YHN Enquiry Centre. When a call is received, a pro forma is completed with the details passed to the Head of Income and Tenancy Management.
- Online reporting. Members of the public can also report fraud online via the YHN fraud [web page](#).
- Housing Benefit. In instances where it is alleged that tenancy fraud has been committed and there may be housing benefit fraud, these cases will be referred to the City Council's Revenues and Benefits Service for appropriate action.
- Sub-letting. YHN recognises that those sub-letting may be unwitting participants in fraud. Where YHN is satisfied that their participation is unintentional and they cooperate with investigations, they should

receive no sanction and be supported to resolve their housing need through the allocations scheme, where possible.

In preventing, detecting and dealing with tenancy fraud, YHN will:

- Share information, in line with YHN's statutory obligations in respect of information governance.
- Confirm the identity of anyone claiming to be a tenant prior to disclosing information that may be used for the purposes of fraud if disclosed to someone other than the tenant.
- Prevent any succession or assignment of a tenancy where the tenant has deliberately made a false statement or the tenancy was obtained from another tenant by payment of a premium. In addition to the refusal of permission, YHN can consider further action, including possession proceedings. Full guidance for direct exchanges and successions is provided by the [direct exchanges and successions policy and guidance](#).
- Carry out checks when a Right to Buy application is made by a tenant, to confirm the applicant's identity, qualifying periods for each applicant and details of any previous discounts and how the purchase will be funded. Anyone found to be knowingly making a false statement or withholding relevant information when completing a Right to Buy application may be prosecuted and the Right to Buy application refused.
- Take action where an employee of YHN commits tenancy fraud. This will be taken seriously and may be subject to disciplinary action and YHN may report the matter to other relevant authorities. See YHN's [code of conduct](#).
- Take appropriate tenancy enforcement and other legal action, where fraud is identified, to stop the fraudulent activity as quickly as possible. This action would be proportionate to the nature of the activity and YHN's ability to prevent it continuing. This action could, ultimately, include injunction, possession proceedings and criminal prosecution, where the person responsible could face a fine or imprisonment.

3.4 Remedies and sanctions

The remedies and powers available to YHN are as follows:

- Refusal of an allocation or withdrawal of an offer of accommodation – within the terms of the allocations policy
- Refusal of a request for assignment or succession – within the terms of the tenancy agreement and the Housing Act 1985.
- Refusal of a Right to Buy application to purchase the property
- Issuing possession, injunction or other tenancy enforcement proceedings. As required advice and assistance in exercising these options will be taken from Newcastle City Council Legal and Audit Services and YHN Anti Social Behaviour Team.
- Issuing proceedings using the powers available to Newcastle City Council through the Prevention of Housing Fraud Act 2013 including

criminal prosecution, and the use of Unlawful Profit Orders to recover any financial gain from unlawful sub letting.

- YHN can together with NCC and Northumbria Police pursue a criminal prosecution. If convicted a tenant may face a fine or imprisonment.

In deciding on appropriate action to take, advice should be sought from:

- Your line manager
- Newcastle Legal Services
- Anti-Social Behaviour Manager
- Head of Housing Options

4. Roles and responsibilities

YHN does not tolerate fraud, and all employees have a responsibility to ensure that tenancy fraud can be prevented, investigated and dealt with effectively.

During Stage 1, the period before a tenancy is granted, and in cases involving mutual exchange, assignment and succession the Housing Options Service are responsible for preventing tenancy fraud.

At Stage 2, during the course of the tenancy, prevention and detection of tenancy fraud is a function performed by the Income and Tenancy & Estate Management services.

Investigation may be assisted by:

- YHN's anti-social behaviour team (HASBET)
- YHN Tenancy Management Teams
- Newcastle City Council Housing Benefit, Audit and their Fraud Investigation team

5. Equality and diversity

See Diversity questions in framework, Appendix 2

6. Responsibility and monitoring of the policy

Responsibility for the monitoring of this policy lies with the Director of Tenancy Services. The Director of Tenancy Services will receive quarterly reports. All instances will be recorded, including number of reports, number investigated and outcomes. A register of cases where tenancy fraud has been alleged and investigated will be maintained jointly by the Head of Housing Options and the Head of Income and Tenancy Services. Section 8 below details the respective involvement of key partners at

different stages of the relationship between prospective tenants and tenants of properties managed by YHN.

7. Review

This policy will be reviewed in line with annual priorities set by YHN Management Team, or as required by any legislative changes.

8. Key contacts

During the pre - tenancy allocations stage

- Head of Housing Options
- Area Housing Options Manager East & West
- Housing Options Manager
- Newcastle City Council Fairer Housing Unit
- Newcastle City Council Revenues & Benefits Service

During the course of a tenancy – mutual exchange, assignment and succession

- Head of Housing Options
- Area Housing Options Managers East & West
- Housing Options Manager
- Newcastle City Council Fairer Housing Unit
- Newcastle City Council Revenues & Benefits Service

During the course of a tenancy – sub letting, sale of keys and all other types of tenancy related fraud

- Head of Income and Tenancy Services
- Area Tenancy and Estate Managers East and West
- YHN Income Manager
- YHN Anti Social Behaviour Manager
- Newcastle City Council Audit Service
- Newcastle City Council Fairer Housing Unit
- Newcastle City Council Revenues & Benefits Service

Your Homes Newcastle & Newcastle City Council – combatting tenancy fraud.

Your Homes Newcastle manages Newcastle City Council's housing and allocations process. Together we want to make sure that those in greatest need have fair access to social housing by tackling fraudulent occupation of our stock. We will achieve this by preventing and detecting tenancy fraud.

What is tenancy fraud?

We consider that the intentional misrepresentation of who is occupying a tenancy or who is applying for accommodation is tenancy fraud. Some examples include:

- Obtaining accommodation by deception or misrepresenting your circumstances to obtain greater priority for housing.
- Subletting a property for profit or to a friend.
- Misrepresenting circumstances to succeed to or be assigned a tenancy.
- Key selling – where the tenant moves out and is paid to hand over the tenancy to someone else.

When tenancy fraud is identified we will use the powers available to us including ending a tenancy, making a criminal prosecution and seizing any unlawful profit obtained through tenancy fraud.

What might happen to anyone guilty of tenancy fraud?

- We may pursue a criminal prosecution. If convicted a tenant may face a fine or imprisonment and seizure of any unlawful profit they have made.
- We may refuse to make an allocation or withdraw an offer of accommodation.
- We may refuse a request for assignment or succession, or the Right to Buy
- We may seek to end the tenancy and recover possession of the property involved in the fraud.

What should you do if you suspect someone of tenancy fraud?

Contact Your Homes Newcastle:

By telephone on 0191 284 0985 or email us at

tenancyfraud@yhn.org.uk

or by going online to

www.yhn.org.uk/freedom_of_information/fraud_reporting_form.aspx

or in In person at any of Your Homes Newcastle's Service outlets.

Diversity Questions to be covered during policy or strategy review:

1. Who does the policy affect directly and/ or indirectly?

This policy affects staff, all tenants and prospective tenants, NCC, national partners in the National Fraud Initiative and the other Tyneside Local Authorities in the Fraud Hotline.

2. Does the policy affect how other services are provided?

No. The policy links to a range of YHN services, but does not affect how these services are provided.

3. How does the policy contribute to the three strands of the general duty?

- eliminate unlawful discrimination, harassment and victimisation
- advance equality of opportunity between different groups; and
- foster good relations between different groups

YHN's approach to tenancy fraud applies equally to all customers regardless of gender, ethnic background, disability or age. There is no suggestion that perpetrators of tenancy fraud belong to or impact on certain groups. Although this policy seeks to impact on fairness of use of our stock, no impacts have been identified on opportunity between groups.

4. Have complaints been received from different equality groups about the policy and its effect on them?

No complaints been received from different equality groups about the policy.

5. What does available data and the results of any work undertaken show about the take-up and appropriateness of your policy?

YHN does/does not record data which disaggregates who commits tenancy fraud. Future demographic information could be recorded in any future cases – decision to be made following consultation.

6. Who has been consulted and likely to be directly affected by the policy e.g. users/ potential users from nine protected characteristics; staff; relevant interest groups etc.

- Manager Housing Needs/Your Choice Homes
- Housing Policy & Development, Fairer Housing Unit, Newcastle City Council
- Tenancy Services Manager, Your Homes Newcastle
- Legal Services, Newcastle City Council
- Benefits Fraud Officer, Revs & Bens, Newcastle City Council
- YHN Officer responsible for National Fraud Initiative
- YHN Officer responsible for Regional Fraud Hotline
- Leasehold Services Manager, Your Homes Newcastle
- Head of IT, Your Homes Newcastle
- Business Strategy Team, Your Homes Newcastle

- [Housing Management Service, Your Homes Newcastle](#)
- [Newcastle City Council Internal Audit Service](#)

7. Are there concerns that the policy does or could have a differential impact on any of the protected characteristics? If yes, what existing evidence (either anecdotal or documented) do you have for this? (link in with question 5). Can this differential impact be justified on the grounds of promoting equality of opportunity for one group?

[YHN's approach to tenancy fraud applies equally to all customers regardless of gender, ethnic background, disability or age. All decisions made on appropriate enforcement action will seek to be based upon assessment of further evidence available, proportionate and fair including the relevant personal circumstances of those under investigation.](#)

Are there any identified negative impacts for any of the protected characteristics? What steps will be taken to address negative impacts identified?

[There are no negative impacts identified.](#)