Draft Housing Fraud Policy

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Housing Management

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

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1 CONTENTS

2 Introduction

2.1 Fraud is a type of criminal activity, defined as: 'abuse of position, or false representation, taking advantage of your position to gain something unfairly, often at the expense of others' rights'. The purpose of this policy is to clarify the Council's position on housing fraud and the action it will take should instances of housing fraud be discovered.

2.2 Social housing is a limited resource and housing fraud detrimentally impacts the Council's ability to effectively allocate to those in real need. The impact of housing fraud can extend well beyond financial loss to the organisation as it can also negatively affect the communities in which it is found (including its association to antisocial behavior), staff morale and the organisation's reputation.

2.3 RBKC will ensure that any allegations of housing fraud are taken seriously and investigated in an appropriate manner, subject to the requirements of appropriate legislation.

2.4 When referring to housing fraud this includes all types of housing fraud such as, but not limited to housing applications, temporary accommodation fraud and tenancy fraud. Different types of housing fraud will be named separately where necessary to differentiate actions taken against that specific type of fraud.

3 Policy Objectives

3.1 This policy has been written to reinforce the Council's zero-tolerance approach to housing fraud. The Council seeks to close false Housing Register applications, recover unlawfully occupied homes, recover the financial profit made through illegal subletting and where possible to seek a criminal prosecution (including but not limited to the Prevention of Social Housing Fraud Act 2013, The Fraud Act 2006, The Theft Act 1968 and the Housing Act 1988).

3.2 In line with Our Values, The Council's Housing Investigations team will aim to conduct investigations respectfully and with integrity, to work together and put communities first.

3.3 To raise awareness amongst staff and the public to recognise the signs of housing fraud and know how to raise any concerns directly to the Housing Investigations Team.

3.4 To work in partnership with key internal and external stakeholders to prevent housing fraud.

4 Related documents

4.1 This policy is underpinned by the following documents. The following documents should be considered alongside the Fraud Policy to ensure appropriate action is taken to prevent and tackle fraud.

- RBKC Anti-Fraud and Corruption Strategy 2020-2023
- Fighting Fraud and Corruption Locally Strategy 2020
- Housing Strategy 2019-2022
- Housing Allocations Scheme 2023
- Tenancy Policy 2024
- The Council's Tenancy Conditions
- Equality, Diversity and Inclusion Strategy 2021-2023
- Safeguarding Policy
- Tenancy agreement
- Housing Application Authorization form

4.2 You can find all of our policies, including the ones listed above on our website: https://www.rbkc.gov.uk/housing/consultations-publications-and-policy/policies-and-publications/policy-and-publications

5 Legal Context

5.1 Listed below are the main related legislative documents in tackling tenancy fraud.

- Prevention of Social Housing Fraud Act 2013 (PoSHFA)
- The Fraud Act 2006
- The Theft Act 1978
- The Housing Act 1985
- The Housing Act 1996 Part 6 and 7 (As amended by Homelessness Reduction Act 2017)
- Data Protection Regulations 2018 including GDPR
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Investigatory Powers Act 2016 (IPA)
- Police and Criminal Evidence Act 1984 (PACE)
- The Equalities Act 2010

6 Definitions of Housing Fraud

6.1 Housing fraud is a term that can describe a range of circumstances where social housing is improperly obtained, misused or wrongly occupied. Housing fraud covers acts of fraud including temporary accommodation and tenancy fraud. Committing housing fraud could lead the Council to close your Housing Register application, lead you to losing your temporary accommodation, your tenancy, your home, you could be criminally charged and further actions can be taken against you which is further explained in section 9.

6.2 The following list is not exhaustive, but does include the main types of housing fraud:

- Withholding information, providing false information and/or not updating your housing register/ homelessness application upon request or when necessary.
- Obtaining housing by deception. This is when a person withholds and/or gives false information in their Housing Register/homelessness application and the Council finds out afterwards.
- Failure to report changes in circumstances such as changes in family composition, employment status and changes in income or benefit claims.
- Subletting of all types of tenancies including secure tenancies, license agreements, non-secure tenancies and private rented tenancies to someone who is not entitled to live there for financial gain.
- Abandonment of the property where the tenant lives elsewhere and fails to relinquish the tenancy and return the property to the landlord.
- Key selling, where the tenant moved out of the property and allows another person to move in unlawfully for profit.
- Non-occupation of the property and failing to notify the landlord that it is not being used as the tenant's main and principal home.
- False Succession, following the death of a tenant, a person falsely claims to qualify for succession in order to obtain the tenancy.
- Unauthorised assignment of the tenancy such as a mutual exchange or a transfer of tenancy without the permission of the landlord.
- False Housing applications to obtain a tenancy by misrepresentation of circumstances or identity.

- False Right to Buy applications where misleading statements and claims are made in order to purchase the property via the Right to Buy scheme.

6.3 For further information on who can apply to the Housing Register, how to keep your Housing Register application up to date, other housing options and more please refer to the Housing Allocations Scheme 2023.

7 How to report housing fraud

7.1 The Council's Housing Investigations Team is committed to investigating all allegations of housing/tenancy fraud in a timely manner. The Housing Investigations Team will aim to acknowledge all reports of housing fraud within 5 working days where contact details have been provided.

7.2 Any concerns relating to housing fraud can be reported in the following ways:

By Phone: 020 7605 6401

By Email: tenancyfraud@rbkc.gov.uk

Using the Reporting Fraud webform: Suspected fraud | Royal Borough of Kensington and Chelsea (rbkc.gov.uk)

In person: Visit Kensington Town Hall or one of our three neighbourhood offices, Blantyre (south of the Borough), Malton Road or Baseline (north of the Borough).

7.3 Providing contact details aids the Council's investigation, but anonymous reports will be respected.

7.4 The Housing Investigations Team responds to reports from various sources, including but not limited to residents, councilors, police, internal teams within the Housing and Social Investment Directorate, Adults and Children's Services, Corporate Anti-Fraud Service and other services.

7.5 Should the Council receive any information relating to non-tenancy fraud related activity or housing fraud for another borough, we will lawfully pass that information on to the appropriate investigation agency whether they be internal to the organisation or external.

7.6 The Council also accepts referrals from our Housing Association partners and temporary accommodation housing providers which are then investigated by our Corporate Anti-Fraud Service (CAFS).

7.7 If any safeguarding concerns are raised as a result of an investigation, these will be passed on to the appropriate internal and external departments/agencies.

8 Combatting housing fraud and responding to reported concerns

8.1 The Housing and Social Investment directorate at RBKC is committed to identifying and preventing housing fraud through proactive measures, including the work of our dedicated Visiting Officer Teams. These officers carry out both announced and unannounced visits to properties occupied by homelessness applicants, temporary accommodation residents, and secure tenants. The primary purposes of these visits are to:

- Confirm residency
- Identify unauthorised occupants
- Update tenancy records
- Assess maintenance and repair needs
- Evaluate the welfare and wellbeing of household occupants

8.2 As outlined in the housing authorisation form, non-secure tenancy agreement, temporary accommodation license agreement and tenancy agreements, applicants and non-secure tenants and tenants are required to grant RBKC Visiting Officers access to their property for these checks. Non-compliance with this requirement will lead to escalation as it is a breach of the agreement signed.

8.3 When concerns regarding potential housing fraud are raised, either internally or externally, they are considered on a case-by-case basis. Allegations are prioritised based on the sensitivity and time-critical nature of the matter, particularly in cases involving:

- Succession and Right to Buy
- Mutual Exchange
- Homeless applications
- Assignment applications

8.4 Should an allegation be opened into an investigation; this will be recorded on a secure case management system and the Housing Management Team, or the Housing Needs Team will be regularly updated as the case progresses.

8.5 If housing fraud is detected, the Council will take appropriate action, this may include:

- Rejecting fraudulent housing applications
- Reassessing eligibility for both temporary and permanent accommodation
- Determining the individual as intentionally homeless

- Discharging the Council's main housing duty
- Recovering the property- this could be by the tenant/housing applicant surrendering the property or through legal action.
- Pursuing the recovery of any unlawful profits made through illegal subletting under the Prevention of Social Housing Fraud Act (PoSHFA) or other legislation as appropriate.
- Seeking the recovery of costs incurred due to the fraud, including temporary accommodation costs, and pursuing criminal prosecutions when appropriate.
- Criminal Prosecution under PoSHFA, The Fraud Act 2006 and any other appropriate legislation.
- RBKC will seek to publicise our criminal prosecutions as a deterrent to others considering committing tenancy fraud.

8.6 The Housing Investigations Team will carry out a comprehensive review of all available information, including cross-referencing internal records and liaising with relevant external agencies, such as credit referencing agencies, banks, employers, utilities companies, doctors, and other housing providers.

8.7 All actions will comply with the Data Protection Act 2018 and GDPR regulations to ensure confidentiality. For further information on the Housing investigations Team please see section 10.

8.8 To raise awareness and deter fraudulent activities, the Housing and Social Investment directorate will anonymise cases and report key headlines for inclusion in communications literature, ensuring the public is informed about the consequences of housing fraud. This will be published on RBKC's website annually by the Housing Investigations Team.

9 How the Council works to prevent fraud

9.1 The Housing and Social Investment Directorate also work proactively to detect and act against housing fraud. We are responsible for managing our social housing stock to the best of our ability with the information provided to us and the information we gather or are informed of. This work is led by the Housing Investigations Team who works in partnership with various internal and external stakeholders to address and put in place fraud prevention measures.

9.2 The Housing Investigations Team will investigate into every referral into the team in accordance with current best practice and within legislative guidelines as set out by the Criminal Procedures and Investigations Act 1996.

9.3 The Housing Investigations Team also:

- Support the Housing Needs Team and carry out checks on application forms and information provided by applicants in support of their approach for housing assistance.

- Work with external social housing providers to share information, data and resources where appropriate and lawful.

- Carry out systems checks on all succession applications, Right to Buy applications, transfer of tenancy applications, including Mutual Exchanges, Assignments, Sole to Joint tenancy and Joint to Sole tenancy requests.

- Proactively prevent fraudulent activity through the use of existing and new technology alongside proactive fraud drives such as Key Amnesty.

- Carry out regular training and proactive initiatives to raise awareness of Housing Fraud and how to report any concerns both for our staff and for residents.

10 Housing applicant's/temporary accommodation resident responsibilities

10.1 As part of the housing application process, applicants acknowledge and agree via the Temporary Accommodation license/Housing Applicant Authorisation agreement/ non-secure tenancy agreement that knowingly providing false information or withholding relevant information is an offence. Such actions may result in the rejection of their housing application, civil or criminal prosecution, and eviction from any accommodation offered.

10.2 Residents under these agreements also agree to the following:

- Agree to not to allow anyone other than their authorised family member(s) to occupy the premises and not to sub-let the whole or part of the premises under any circumstances.
- Grant the Council's officers, representatives, or their appointed agents or contractors, unrestricted access to the premises where necessary.
- To occupy the property as your only and principal home for the duration of the agreement. If it is suspected that you are not occupying the property, then you will be at risk of losing your non-secure tenancy.

10.3 Housing applicants, whether before or after receiving temporary accommodation, are required to inform the Council immediately of any changes in their circumstances that may affect their housing placement. This may include, but is not limited to:

- Changes in family composition

- Employment status changes
- Changes in income or benefit claims

10.4 Failure to report these changes promptly may lead to the termination of temporary accommodation or other legal consequences.

11 Tenant's responsibilities

11.1 Under the terms of the tenancy agreement, tenants (or anyone acting on their behalf) must not make false statements in order to obtain the tenancy. Additionally, tenants agree that the landlord or its agents have the right to enter the property with 24 hours' notice for tenancy-related purposes, which may include taking photographs, video, or sound recordings.

11.2 Tenants must also adhere to the following conditions:

- They must not make false statements to the landlord or agent to obtain the tenancy.
- They must not assign the tenancy of the entire property, except as permitted by Section 91 of the Housing Act 1985.
- They must not assign the tenancy without prior written consent from the landlord or agent.
- They must not sub-let the entire property or any part of the property without the landlord's written consent.

11.3 For more detailed information regarding tenant responsibilities and the Council's duties, tenants should refer to their tenancy agreement.

12 Support for complainants and victims of fraudulent activity

12.1 We will aim to support victims of housing fraud in so far as we reasonably can. Examples of the types of support we can offer include:

- Signposting individuals to our Housing Needs department for housing advice and assessment.
- Liaising with Housing Management should the allegations prove malicious.
- Signpost any safeguarding concerns to the appropriate agencies.
- Support those raising their concerns by protecting their anonymity if they wish.

13 Equalities Statement

13.1 The Council is committed to promoting fair and equal access to services and equal opportunities in employment, the procurement of goods and as a community leader. The Council's policies, procedures and day to day practices have been established to promote an environment which is free from unlawful and unfair discrimination, while valuing the diversity of all people.

13.2 Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable: the Council will take action to ensure no person using the council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users.

14 The General Data Protection Regulation (GDPR) and the UK Data Protection Act 2018

14.1 As a directorate of RBKC, Housing Management shares the commitment to ensure that all data is:

- Processed lawfully, fairly and in a transparent manner.
- Collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices.
- Relevant and limited to whatever the requirements are for which the data is processed.
- Accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay
- Stored for as long as required, as specified within RBKC's Records Retention policy.
- Secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction or damage.

14.2 For further information about the Council's commitment to GDPR, please see the Council's website at www.rbkc.gov.uk.

15 Monitoring, Review and Accountability

15.1 This policy will be reviewed on a five-year rotational basis (or sooner to incorporate legislative and/or regulatory amendments and best practice developments).

15.2 We reserve the right to make minor amendments to the policy prior to its scheduled review date, under the delegated authority of the Executive Director of Housing and Social Investment and Director of Housing Management, dependent on the level of change required. This will still have accountability internally but will show much better value for money and efficiency timewise, for minor changes. We would define minor changes as the following scenarios:

- Amendments to the policy where the sentiment is the same, but wording is changed to provide greater clarity or knowledge to the resident/staff members.
- Internal responsibility changes only (team/staff member)
- Amendments that solely reflect legislative changes.
- Operational changes that are based more on procedural detail.