

1. Tenancy fraud has a direct impact on our customers and their communities. It deprives legitimate customers of access to social housing and breaches legal and regulatory requirements concerning the use of public funds. Guinness is therefore committed to secure the use of its properties for the customers they were intended for and will take action against tenancy fraud whenever it is uncovered.
2. This policy sets out our approach to preventing and tackling tenancy fraud by customers in our rented homes and the illegal sub-letting of shared ownership homes. It sets out our commitment to work with our customers and other agencies to detect and investigate suspected fraud. It also sets out the action we may take against the perpetrators of fraud. This policy applies to The Guinness Partnership Ltd including Guinness Homes. Tenancy fraud and other technical terms are defined in Annex 1.

The Guinness Policy

3. Our policy is that we will:
 - Comply with relevant statutory and regulatory requirements;
 - Work in partnership with other agencies to prevent and detect tenancy fraud;
 - Take action against our own customers where we suspect identity fraud;
 - Support local authorities pursuing action against our customers by sharing information and where appropriate taking joint civil action; and
 - Take action to resolve the breach of tenancy where tenancy fraud is detected.

Background

4. The Prevention of Social Housing Fraud Act 2013 made it a criminal offence for customers to sub-let or part with possession of their home or any part of it without permission. The Act gave local authorities the power to bring about a criminal prosecution in relation to tenancy fraud. This action may be taken on behalf a Registered Provider (RP). Convictions can result in fines of up to £50,000, a two-year imprisonment or both.
5. RPs are able to pursue proceedings in the civil court for possession of the property due to the breach of tenancy. RPs may also apply for an Unlawful Profit Order, where it's believed that the customer has made money as a result of their illegal conduct.
6. The Regulator of Social Housing requires that RPs publish clear and accessible policies which outline their approach to tackling tenancy fraud. RPs must also make sure their homes continue to be occupied by the customer they were let to for the duration of the tenancy. See Annex 2 for the specific details of this requirement.
7. Homes England requires that shared ownership leases must prohibit sub-letting to protect public funds and to ensure shared owners are unable to enter into shared ownership for commercial gain. However, RPs may permit sub-letting in certain closely specified exceptional circumstances.
8. This policy supports the delivery of our strategic objective to meet our legal and regulatory requirements in respect of the occupation of our rented homes.

Further detail

Preventing fraud occurring

9. We will focus on preventing tenancy fraud occurring in the first instance by carrying out a range of checks as part of our tenancy allocation and letting practices. They include:
 - Collecting information from the customer in order to verify their identity and right to reside in the UK;

- Conducting financial history and tenancy checks;
 - Taking or asking for photographs of customers and linking these to customer records; and
 - Sharing information with local authority choice based lettings schemes across the country who may also carry out checks on applicants and those they nominate for homes.
10. We will conduct checks soon after the start of a new tenancy to ensure that the person we granted the tenancy to moves in and is living in the property.
 11. We will work in partnership with other agencies to prevent and detect tenancy fraud in our homes and communities. This includes local authorities and the Department for Work and Pensions.

Detecting suspected fraud

12. We will continue to be alert to the possibility of tenancy fraud throughout the duration of the tenancy. We will take security details from customers to verify their identity whenever customers contact us on-line or by phone.
13. We will use feedback from tenancy visits to help identify suspected fraud and, from time to time, we will conduct occupancy checks on tenancies at high risk of fraud.
14. There is often a high risk of fraud occurring after we have refused an application to change the tenant or occupiers of a property. This might happen, for instance, after a customer has applied for a mutual exchange, asked our permission to take in a lodger, applied to change to a joint tenancy or in cases where we have refused a succession to the tenancy. We will monitor these tenancies carefully after we have refused permission and act quickly if an unauthorised change of occupant occurs.
15. All our customer-facing employees are trained to recognise the potential signs of tenancy fraud. This training includes details of what they need to do if they suspect fraud. All reports of suspected fraud from third parties will be treated seriously.

Investigating suspected fraud

16. We will conduct investigations into all cases of suspected tenancy fraud. Information we collect during the investigation, including information about the suspected fraudster, may be used as evidence in criminal and civil proceedings, or to provide tenancy fraud data to our partners and the Regulator.
17. All relevant legal requirements will be adhered to during the course of our investigations and when we take action against perpetrators of tenancy fraud, such as the Human Rights Act 1998, Equality Act 2010, General Data Protection Regulation 2016 and the Data Protection Act 2018.

Action we may take against perpetrators of fraud

18. If the customer does not end their tenancy, we will take proportionate action against them. This may include injunctive action; action to recover possession of the property; or action to enforce the lease.
19. If we believe the perpetrator of tenancy fraud has gained financially from their deception, we may seek to recover financial costs and damages from them. This includes obtaining an Unlawful Profit Order in relation to any profit made from sub-letting the property, plus the costs of any legal action.
20. We will support statutory agencies such as the local authority if they decide to pursue criminal action against our customers. This may include providing information to support criminal action proceedings or by taking joint action against the customer.

Supporting victims of fraud

21. Sometimes when we are investigating fraud we find out that the occupant is themselves a victim of crime. This could be the case where person A sub-lets a Guinness property to person B and tricks person B into believing that person A is the property owner. We will provide such victims with a reasonable level of support to find alternative housing, for instance by sign-posting them to the local authority housing service.

Customer awareness of tenancy fraud

22. We will increase customer awareness of the common signs of tenancy fraud in their communities and the methods by which they can report suspected tenancy fraud to us. We will do this generally and we may also target specific properties where we suspect fraud may be occurring.
23. Customers who suspect benefit fraud will be encouraged to report this to their local welfare benefit fraud team. Guinness will also report suspected benefit fraud where we become aware of or suspect this.
24. We may publicise our successful fraud investigations, subsequent enforcement action and the outcomes to our existing customers.
25. We may work with local and national specialist tenancy fraud forums and networks to share best practice and continually improve our approach to tackling tenancy fraud.

Period of review

26. Our review programme is driven by service improvement initiatives, changes to legislation, regulation, evolving good practice or feedback from customers and other key stakeholders. Typically we review policies on a three yearly cycle.

Key legal and regulatory references

- Forgery and Counterfeiting Act 1981
- Housing Act 1985
- Housing Act 1988
- Human Rights Act 1998
- Regulatory Investigation Powers Act 2000
- Fraud Act 2006
- Equality Act 2010
- Localism Act 2011
- Prevention of Social Housing Fraud Act 2013
- The Tenancy Standard 2015
- Data Protection Act 2018
- General Data Protection Regulation 2018

Related policies

- Allocations policy
- Anti-fraud policy
- Anti-social behaviour, hate crime and hate incidents policy
- Data protection policy
- Mutual exchange policy
- Starter tenancy policy
- Succession policy
- Tenancy policy
- Voluntary right to buy policy – Midlands pilot

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Policy author	Helen Hatton, Housing Policy Officer	
Lead director	John Cockerham, Director of Customer Service Operations	
Policy owner	Trafford Wilson, Executive Director of Customer Services	
Version history		
Version number	Review trigger	Brief description of the main changes
2.0	Cyclical review	The changes include inserting the policy into the new corporate template and providing greater clarity about our approach to detecting and tackling tenancy fraud.

Annex 1: Definitions

Term	Description
<p>Tenancy fraud (also called social housing fraud)</p>	<p>The occupation of a social housing home by a person or persons who are either not legally entitled to live there or have obtained use of the property fraudulently.</p> <p>Tenancy fraud generally falls into three categories:</p> <ul style="list-style-type: none"> • Not using the property as the ‘sole or principle home’. This includes: <ul style="list-style-type: none"> – abandoning the property (but retaining the tenancy); – succeeding to or assigning the tenancy after the legal tenant has moved away or died, and that person does not have the right to move in; or – unlawfully subletting all or part of the property on a short or long-term basis (including ‘key selling’) without the knowledge or permission of the landlord (Guinness). • Attempting to obtain a property by using false statements and/or false documents. This includes providing false information on housing applications or when applying to buy the house they live in under the right to buy or right to acquire schemes; and • Maintaining a social housing tenancy whilst having a legal interest in another property.

Annex 2: Relevant excerpts from The Tenancy Standard

The Regulator of Social Housing has set out consumer standards which apply to all Registered Providers (RPs). The Regulator will intervene where failure to meet the standards has caused, or could have caused, serious harm to tenants. The following information is taken from the Tenancy Standard.

2.2 Tenure

2.2.1 “Registered providers shall publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies and prevent unnecessary evictions, and tackling tenancy fraud...”

2.2.6 “Registered providers shall make sure that the home continues to be occupied by the tenant they let the home to, in accordance with the requirements of the relevant tenancy agreement, for the duration of the tenancy, allowing for regulatory requirements about participation in mutual exchange schemes.”