

Tenancy Fraud Policy

1. Purpose of policy

- 1.1 Karbon Homes is committed to providing excellent standards of service to its customers. This policy outlines Karbon Homes' approach to tackling Tenancy Fraud.
- 1.2 The purpose of this policy is to ensure that Tenancy Fraud within Karbon Homes stock is minimised or eradicated.
- 1.3 Karbon Homes will take legal action if Tenancy Fraud has been proven.

2. Objectives

- 2.1 This policy ensures that Karbon Homes:
 - Complies with legal and regulatory requirements stated in the Social Housing Fraud Act
 - Makes best use of its stock
 - Deals effectively with all incidences of suspected tenancy fraud
 - Deals effectively with all incidences of fraudulent Right to Buy or Right to Acquire applications.

3. Policy detail

3.1 Defining Tenancy Fraud:

3.1.1 Unauthorised occupation

The tenant claims to live at the property, but instead leaves the property or lets all or part of it out without landlord's consent.

3.1.2 Non occupation

The tenant claims to use the property as their principal home, but instead uses it as a second property and uses it infrequently.

3.1.3 Key selling

The tenant leaves the property without notifying Karbon Homes and passes the keys to a third party in exchange for monetary payment or payment in kind.

3.1.4 Fraudulently obtaining social housing

The tenant provides false information in order to gain a tenancy. This includes:

- Misrepresentation of circumstances - including providing a false statement when applying to join the housing waiting list, or providing a false statement when applying as a homeless person.
- Providing false identification – including using false documents or misrepresenting their identity using another person's documents.

3.1.5 Wrongly claimed succession

- The occupier is not a person who is entitled to succeed for example the occupier is not the tenant's partner or a member of the tenant's family or has not lived in the tenants home for 12 months before they dies. Succession rights are explained in more detail in Karbon Homes succession policy.

3.1.6 Unauthorised exchange and assignment

The tenant gives their tenancy either to a partner or family member who lived in the property with them (assignment) or another person in exchange for their tenancy, without obtaining permission from the landlord. Assignment, like succession can take place within the conditions of the tenancy agreement but all criteria must be satisfied in order to make the assignment lawful.

3.2 Impact of Tenancy Fraud:

3.2.1 Tenancy fraud has a damaging impact upon Karbon Homes and its residents because:

- It can prevent people in genuine need accessing social housing.
- Karbon Homes is not able to make best use of its housing stock.
- Some residents could spend longer in unsatisfactory, overcrowded or temporary housing if they are prevented from accessing housing because it is being blocked due to tenancy fraud.
- There is a greater risk of the property being used for illegal purposes.
- There is a greater risk of damage to the property as a result of modifications made to it to make it suitable for subletting to a number of tenants.
- Karbon Homes may have more difficulty gaining access to the property to carry out essential maintenance work, putting at risk the health and safety of the property and the occupiers within it.
- Unauthorised subtenants, unaware of their status, could be vulnerable and at risk of eviction and homelessness should the unlawful activity be detected.

3.3 Tackling Tenancy Fraud:

3.3.1 Karbon Homes will operate the following practices to minimise the possibility of tenancy fraud:

- All housing applicants and their household members will be asked to supply proof of their current address at the application for housing stage.
- Proof of identity will be requested to be brought along to the property viewing and sign up and will be checked by the Officer.
- Information about the rights and responsibilities around occupation will be provided to every new tenant at the sign up appointment.
- At the 'new tenant follow up visit' Officers will check that the people listed on the application form have taken up occupancy.
- Karbon Homes may undertake periodic tenancy audits to verify the identity of the occupants. Karbon Homes may take photographs of tenants and hold them on file to assist with this.

3.3.2 Suspected tenancy fraud can be reported by anyone. Customers can contact us at any of our offices in person, by telephone on 0300 300 1505 by email or through social media if they suspect tenancy fraud. Karbon Homes will treat any information that we receive as confidential and take appropriate and proportionate action when we receive reports.

Regular awareness raising campaigns will be carried out about the impact of tenancy fraud with information on how people can report suspected incidents.

3.4 Supporting Victims of Unlawful Subletting:

3.4.1 Karbon Homes will offer advice to victims of unlawful subletting in relation to their future housing options and rights.

3.5 Social Housing Fraud Act 2013

3.5.1 The Prevention of Social Housing Fraud Act 2013 makes it a criminal offence for tenants to sublet or part with possession of, their socially rented home. The main objectives of the Act are to:

- Deter tenants from committing social housing fraud.
- Incentivise those already committing social housing fraud to stop.
- Increase the powers of local authorities to investigate social housing fraud.
- Recover fraudulently used socially rented homes more effectively.

3.5.2 The Act makes subletting a criminal rather than a civil offence, with a potential two-year jail term.

3.5.3 The Act creates a new criminal offence of subletting, or parting with possession of, a socially rented home. There are two levels to the offence- 'knowingly' and 'dishonestly' which carry different sentences.

- a) 'Knowingly' committing social housing fraud - this is the lesser of the two offences. The perpetrator knows their actions were against the law and a breach of their tenancy agreement.

Maximum penalty: £5000 fine

Exceptions: the individual is exempt from the offence if they committed it under threats of violence or if they had the right to transfer the tenancy.

- b) 'Dishonestly' committing social housing fraud - this is the more serious offence. The perpetrator knows their actions were illegal and has done so dishonestly, for example if the tenant set out to defraud the housing provider to make a profit through subletting.

Maximum penalty: Unlimited fine and up to two years imprisonment

Exceptions: There is no exemption under the 'dishonesty' offence.

3.5.6 The Act gives local authorities the power to prosecute these offences. Local authorities may prosecute on behalf of social housing providers, both in their area and from other local authority areas.

3.5.7 There is no obligation for social housing providers, including local authorities, to bring criminal prosecutions in cases of social housing fraud, and providers may decide that recovering the property is the priority either through surrender or court-ordered possession. Karbon Homes may bring criminal prosecutions depending upon the circumstances.

3.6 Restitutionary payments:

3.6.1 The Act gives the court power to award payment to the social housing provider in the event of a prosecution in the form of an 'unlawful profit order'. The award can be made by either the civil or criminal court and would be valid alongside any other sanctions, including a fine, imprisonment or eviction. The order can be made for any profit gained by the tenant from subletting the property, to be paid to the social housing provider.

3.7 Security of tenure:

3.7.1 The Act makes an amendment to the Housing Act 1988 to bring parity between assured and secure tenants, in terms of security of tenure. If a tenant parts with possession of their property, or sublets the whole of the property, they will lose their 'assured' status and security of tenure. This cannot be regained by returning to the property. Karbon Homes will in this situation issue a Notice to Quit to recover the property.

3.8 Defining Right to Buy and Right to Acquire Fraud:

Right to Buy and Right to Acquire Fraud refers to incidents where a tenant has applied for, or completed, the purchase of a socially rented homes or homes let on an affordable rented tenancy under the Right to Buy or Right to Acquire schemes and

has misrepresented their circumstances to gain a discount they are not entitled to, or bought their property under the Right to Buy or Right to Acquire scheme when they have not been entitled to. Examples of Right to Buy or Right to Acquire Fraud are:

- Misrepresenting the length of a tenancy to gain additional discount
- Concealing their tenancy history by not disclosing possession orders transfers or evictions
- Attempting to purchase or purchasing a property they have not been using as their sole or principal home
- Providing false or misleading information about their household for example by submitting a joint Right to Buy or Right to Acquire application with someone who does not live in the property or has not lived in the property for the required period.

3.8.1 Tackling Right to Buy and Right to Acquire Fraud:

Karbon Homes will operate the following practices to minimise the possibility of Right to Buy and Right to Acquire Fraud:

- Carry out comprehensive checks at each stage of a Right to Buy or Right to Acquire application.
- Share and verify information provided as part of a Right to Buy or Right to Acquire application with organisations such as credit reference agencies as well as other Housing & Council Departments.

Tenants who provide false or misleading information or withhold information may be prosecuted. If Karbon Homes uncovers evidence of fraud after the sale of the property the purchaser can still be prosecuted.

3.8.2 Data sharing and investigations:

The Act makes provisions for the Secretary of State to create further regulations around powers to access data when investigating social housing fraud.

4. **Monitoring and Review**

This policy will be reviewed every 3 years unless there are significant changes to legislation or regulatory requirements.

5. **Equality and Diversity**

This policy is implemented in line with Karbon Homes Equality and Diversity Policy and associated legislation. Consideration will be given to all protected characteristics under the Equality Act 2010 to eliminate discrimination, advance equality of opportunity and foster good relations.

This policy and associated documents are available in different languages and alternative formats where necessary.

6. Data Protection and Privacy

Karbon Homes has a clear policy on data protection and sharing data with other partners/outside agencies under the requirements of the Data Protection Act 1998. This is clearly set out in Karbon Homes Data Management Policy which, along with the supporting Data Management Guidelines, must be followed throughout the operation of this policy.