

# Tenancy Fraud Policy

Responsible Officer	Executive Director of Customer Services
This policy is applicable to	Karbon Homes
Approved by	Group Executive
Date approved	5 <sup>th</sup> June 2024
Frequency of review	Every 3 years
Date of next review	5 <sup>th</sup> June 2027
Implementation date	June 2024
Key related documents (policy, procedure, customer literature)	Tenancy Fraud Procedure Karbon Homes Tenancy Policy. Karbon Homes Allocations and Lettings policies and procedures. Karbon Homes Rent Setting and Service Charges policy and procedures. Karbon Homes Abandoned Properties policy and procedures. Karbon Homes Assignment and Mutual Exchange policies and procedures. Karbon Homes Succession policy and procedures.
Sources of best practice or guidance used in developing this policy	Prevention of Social Housing Fraud Act 2013 Housing Act 1988 Housing Act 1985

Version control			
Version number	2	Author of Policy	Kath Glen Housing Manager
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Privacy Impact Analysis	Initial	Privacy Analysis Date	

Document change history		
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Consultation	
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Health and Safety Working Group	N/A

Other stakeholder (please state)	N/A
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## Policy statement

Karbon Homes is committed to delivering excellent service to customers and making best use of its stock. This policy details Karbon Homes' commitment to preventing and tackling tenancy fraud and fraudulent applications for the Right to Buy and Right to Acquire. Karbon Homes will address unlawful subletting and incidents of tenancy fraud promptly and effectively to ensure all its housing stock is used by those with legitimate housing need.

## Risk policy is designed to control

This policy is designed to control the risk of tenancy fraud and the unlawful occupation of Karbon Homes properties to ensure the effective supply and management of housing stock. The policy mitigates the financial and reputational risks to the organisation arising from tenancy fraud, unauthorised occupation and fraudulent Right to Buy or Right to Acquire applications.

## Key performance measures

## Definitions

## Abbreviations

### 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. This may include issuing possession proceedings and/or pursuing a criminal prosecution.

### 2. Objectives

- 2.1 This policy ensures that Karbon Homes:
  - Complies with legal and regulatory requirements stated in the Prevention of Social Housing Fraud Act 2013;
  - Makes best use of its properties;
  - 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 Forms of Tenancy Fraud:**

##### **3.1.1 Unauthorised occupation**

The tenant claims to live at the property, but instead leaves or abandons the property and or sublets all or part of it without Karbon Homes 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 for - including providing a false information or statement when applying to join the housing waiting list or providing a false information or 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 tenant's home for 12 months before they die. 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 Karbon Homes. 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 and it cannot be done without the consent of Karbon Homes.

## 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. Further impact of tenancy fraud may be but is not limited to the following:

- Karbon Homes is not able to make best use of its properties which could result in some residents spending longer in unsatisfactory, overcrowded or temporary housing.
- 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 changes, alterations, modifications for example altering the property to provide additional bedrooms 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.
- The above appointments will be held in person with the tenant.

3.3.2 Suspected tenancy fraud can be reported by anyone. Customers can contact us at any of our offices in person, by telephone, 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 offence as well as enhancing the powers of landlords through the civil courts to obtain Unlawful Profit Orders and that the tenant would lose security of tenure for good. An individual found guilty of the criminal offence could face a potential fine and a custodial sentence up to two years.

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: £5,000 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.

3.5.4 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.

3.5.5 There is no obligation for 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 work with the relevant Local Authority to 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'.

3.6.2 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 the impact upon a tenant's security of tenure if they sublet. 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 Right to Buy and Right to Acquire Fraud:

3.8.1 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 home 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.

3.8.2. 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.

3.8.3 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.

3.8.4 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.

### 3.9 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 Vulnerable customers

- 4.1 This policy is applied in line with Our Approach To Vulnerability Policy. Everyone matters. We want people to be treated fairly, have equality of opportunities, freedom, respect and access to our services. We will offer support, reasonable adjustments, and adaptations to remove barriers. We will discuss with our customers what is reasonable and appropriate. In delivering this service we may need to escalate a particular case – if we do then customer vulnerabilities will be considered as part of the decision-making process.
- 4.2 We will support people with vulnerabilities to deliver this service. We will work alongside external agencies such as social services, the police and fire services and other appropriate agencies to help and support people with vulnerabilities in the delivery of our services but also to ensure we meet our statutory and regulatory requirements as a social landlord.
- 4.3 Details are provided in the appropriate areas in this policy.
- 4.4 All of our customer policies are available on the website.

## 5 Monitoring and Review

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

## 6 Equality, Diversity and Inclusion

This policy is applied in line with our Inclusion and Belonging Policy. This includes the legal requirements of the Equality Act 2010 and the Public Sector Equality Duty.

At Karbon we aim to eliminate discrimination, promote equality of opportunity, foster good relations and define the nine protected characteristics of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation.

However, we like to go even further. Beyond these protected characteristics we also take into consideration additional factors such as socio-economic status and language barriers which may also play a part. Our vision is for everyone to be treated fairly, have equality of opportunities, freedom, respect and access to our services.

To help us achieve this, we will work to improve accessibility for all, offering reasonable adjustments, adaptations and discussing ways that we can work to remove any barriers. A reasonable adjustment involves making a change to the way that we usually do things.

All of our customer policies and key information are made available on the Karbon Homes website. These platforms have an easy to use assistive tool that supports accessibility to our information. This includes translation, audio, changes to the size of text, ruler and screen mask. We also aim to make our information and services more accessible by using Plain English in our communication and offering sign language and language interpreters where required.

We work together to look at options and agree what adjustments would be reasonable in your individual circumstances. If you would like this or any other policies in different language or format please contact [inclusion@karbonhomes.co.uk](mailto:inclusion@karbonhomes.co.uk).

## **7 Data Protection and Privacy**

We have a clear policy on data protection and sharing data with other partners/third parties under the requirements of the UK General Data Protection Regulation, the Data Protection Act 2018 and other associated legislation. This is clearly set out in the Data Protection Policy for the Karbon Homes Group which, along with its associated procedures, must be followed throughout the operation of this policy.