



Housing & Tenancy Fraud

Document Control

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Legislative Duties	<i>Prevention of Social Housing Fraud Act 2013</i>

Revision History

Date	Version	Author	Comments
	0.1	Head of Estate Services 11/11/24	0.1 Draft Policy outline
	1.0	Following Consultation Exec Director Customer & Estate Services, Head of Customer Services, Income Manager & Asst Head Neighbourhoods & Tenancy Sustainability	1.0 Draft Policy for Internal Consultation
	1.1	Following Consultation BMBC (Head of Corporate Assurance, Head of Strategic Housing, Corporate Assurance Manager	1.1 Draft Policy for Council Consultation
	1.2	Following consultation engaged Tenants	1.2 Draft Policy for Tenant Consultation
	2.0	Following consultation with BH Audit & Risk Committee	2.0 is the approval of the reviewed document at BH Audit and Risk Committee on the 29th January 2025

Consultation and Distribution

Type	Details
Consultation	<i>Tenant Voice Panel / Check it Challengers Barnsley Council Corporate Assurance & Strategic Housing</i>
Distribution	<i>All staff via team brief, council fraud team, RTB team, all tenants via social media campaign and website</i>

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1. Introduction & Policy Aim

This policy outlines the measures and procedures that Berneslai Homes will implement to prevent, detect, and respond to housing and tenancy fraud.

Housing and tenancy fraud undermines the integrity of our housing system and deprives those in genuine need of housing.

Berneslai Homes are committed to ensure the Council's housing stock is allocated fairly and used appropriately, and that tenancy fraud is identified and prevented. Housing fraud must be a concern to all Berneslai Homes staff and Board Members. This policy outlines the specific responsibilities and measures that will be taken to detect, investigate, and prevent tenancy fraud.

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

2. Legislative and Regulatory Requirements

This policy ensures Barnsley Council and Berneslai Homes meets its obligations under the Regulator of Social Housing's Regulatory Framework in relation to tenancy fraud. This states that registered providers shall "make sure that the home continues to be occupied by the tenant they let the home to" and "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."

The policy acknowledges relevant statutory provisions including the Housing Act 1985, the Housing Act 1988, the Housing Act 1996, the Data Protection Act 2018 and the Prevention of Social Housing Fraud Act 2013. The policy will be updated to take into account any future relevant legislation.

3. Policy Scope

This policy applies to:

- Tenants, households' members, residents, and leaseholders living in homes managed by Berneslai Homes.
- Applicants on our housing register.

This policy supports Barnsley Council in making the most of their housing stock and ensuring that properties are occupied by those in greatest housing need.

It sets out our approach to tackling housing and tenancy fraud and covers all forms of housing and tenancy related fraud including but not limited to providing false information to obtain a tenancy, subletting the property without permission, providing false information to obtain a Right to Buy Discount.

The Prevention of Social Housing Fraud Act (2013) makes social housing fraud a criminal offence. The ability to secure a successful prosecution will be determined by the evidence obtained, and it is of the utmost importance that any suspected fraud is reported to the Council's Fraud Team at the earliest opportunity.

4. Definitions

For the purpose of this policy, the term 'housing and tenancy fraud' refers to a person that obtains or attempts to obtain a tenancy by deception and/or fails to use a property as it is intended. It may also be referred to as social housing fraud, unlawful occupancy, unauthorised occupancy or tenancy misuse.

The following are common examples of tenancy fraud:

- **Unlawful subletting**

Unlawful subletting can include renting out the whole of the property or individual rooms within the property to a third party without permission. Our Tenancy Agreements make it clear that unauthorised subletting is not permitted.

- **Non-occupation**

Non-occupation is where a tenant claims that the council home is used as their only or principle home, but instead uses it as a second property and resides there infrequently or not at all.

- **Fraudulent succession**

Fraudulent succession is where a property has been retained by an occupant following the death of the tenant without the consent or knowledge of Berneslai Homes, and by a person who does not have any rights of succession.

- **Unauthorised exchange or assignment**

Unauthorised exchange or assignment is where a tenant or tenants exchange or assign properties without the consent or knowledge of Berneslai homes.

- **Fraudulently obtaining a tenancy**

Fraudulently obtaining council housing is where a tenant provides false or misleading information in order to obtain a tenancy. This can include misrepresentation of circumstances, including and/or providing false identification.

- **Right to Buy**

Providing misleading or false information on an application to purchase the property through the Right to Buy scheme.

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This policy ensures Barnsley Council and Berneslai Homes meets its obligations under the Regulator of Social Housing's Regulatory Framework in relation to tenancy fraud. This states that registered providers shall "make sure that the home continues to be occupied by the tenant they let the home to" and "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."

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5. Impact of Housing and Tenancy Fraud

Failure to tackle housing and tenancy fraud has a number of effects on the Council, Berneslai Homes and its residents, including:

- The housing stock is not put to best use
- Increased waiting times for applicants and existing tenants wishing to move home
- Increased risk of disrepair and damage to the property due to a reluctance to report repairs or accept improvements
- Difficulty gaining access to carry out essential safety works or routine maintenance
- Increased risk of criminal damage or Anti-Social behaviour
- The unlawful sub-tenant(s) may not be aware of their status and can be vulnerable to being charged increased rents and are at risk of unlawful evictions and homelessness
- Increase in resources due to the costs of investigation and court proceedings.

6. Prevention of fraud

Prevention is by far the most effective and efficient way of managing the risks of fraud. Berneslai Homes has in place a number of measures to prevent and deter tenancy fraud that include:

- Conducting thorough checks on all housing applications, including verifying identity and residency
- Undertaking checks with credit reference agencies

- The use of data matching techniques to cross-check information with other records, such as Housing Benefit and the Electoral Roll.
- Awareness raising amongst applicants, tenants and staff about the consequences of housing fraud.

7. Detection of Fraud

To detect housing fraud, Berneslai Homes will:

- Report suspected or actual fraud to the Council in line with this policy, at the earliest opportunity.
- Encourage the public to report suspected fraud by calling 01226787878 or online by completing and submitting our online form www.berneslaihomes.co.uk/fraud
- Collaborate with Barnsley Council, other councils and agencies to share information and best practice.
- Support and engage with the National Fraud Initiative

8. Response to Fraud

Berneslai Homes and Barnsley Council take housing fraud very seriously. The consequences for individuals found to be committing housing fraud may include, but are not limited to:

- Recovery of Property: Eviction from the council property
- Financial Penalties: Repayment of any financial gain obtained through fraudulent actions, including rent arrears.
- Legal Action: Prosecution with potential criminal charges, leading to fines or imprisonment.
- Loss of Future Housing Opportunities: Disqualification from applying for or being allocated council housing in the future.

These measures serve to reinforce our commitment to fairness and integrity within our housing system and to deter fraudulent activities.

9. Reporting & Monitoring

Our online reporting form is found at www.berneslaihomes.co.uk/fraud.

Berneslai Homes will:

- Maintain records of all reported and detected cases of housing fraud.
- Regularly review and update this policy to ensure its effectiveness.
- Report on the outcomes of fraud investigations to the Audit and Risk committee.

10. Legislative Duties

Government legislation has an impact on how Berneslai Homes can implement its Housing & Tenancy Fraud policy. Listed below are the key Acts that have been acknowledged:

- Prevention of Social Housing Fraud Act 2013
- Fraud Act 2006
- Housing Act 1985 as amended
- Housing Act 1988 as amended
- Data Protection Act 1998/GDPR
- Law of Property Act 1925

In addition, Berneslai Homes shares relevant information with third parties for the purposes of preventing, investigating and tackling tenancy fraud.

When sharing personal data, we will comply with all aspects of the General Data Protection Regulations 2016 (GDPR) and the Data Protection Act (DPA) 2018. Our privacy notices can be found on our website at www.berneslaihomes.co.uk.

We have a data protection policy which details how we, Berneslai Homes as a Data Controller process personal data and comply with legislation you can find this here at: [Data Protection Policy April 2024](#)

11. Equality, Diversity and Inclusion

We will ensure equal and fair access to our services; we will do this by taking into consideration the individual needs of our tenants, their family or other persons living with them.

We will ensure that individual needs are considered throughout the process and make reasonable adjustments where necessary. We will treat people fairly and with dignity and respect.

12. Complaints

Individuals have the right to make a complaint under Berneslai Homes Complaint Policy about how we have followed this policy or the service we have given them in respect of this policy.

The Complaint Policy is on our website and referenced in any letter we send. Where the complaint is about actions of Barnsley Council we will refer the complaint to them to be considered under their policy.

Complaints can be made in various ways including:

- Online
- By phone
- By letter
- By e-mail
- Using a third party

We have 2 formal stages to our complaint process and we acknowledge complaints within 5 working days of their receipt.

Stage 1 The complaint is investigated by an independent officer (where necessary) and a written response provided within 10 working days.

Stage 2 If the resident is still not satisfied the complaint will be reviewed by the Customer Services Team on behalf of the relevant Head of Service and a written response provided in 20 working days.

Making a complaint, unless agreed due to exceptional circumstances, will not stop progress on any process or decision being made under the terms of this policy, such as registering an application, making an offer, serving a notice or arranging a review.

Once a complaint has been through both of stages of our complaint process or where we have refused to accept a complaint, the individual has a right to ask the Housing Ombudsman to consider their complaint.

Complaints - Contact us www.berneslaihomes.co.uk/contact-us/.

13. Related Documents

This policy should be considered in conjunction with the following:

- [Barnsley Councils Lettings Policy](#)
- [Barnsley Councils Safeguarding Policies & Procedures](#)
- [Berneslai Homes Vulnerability Protocol](#)
- [Berneslai Homes EDI Strategy](#)
- [Berneslai Homes Domestic Abuse Policy](#)
- Berneslai Homes Tenancy Change Policy (In Draft)

14 For Further Information

Barnsley Council's web section on fraud includes the number of occasions the powers under the Prevention of Social Housing Fraud (power to require information) (England) Regulation 2014 have been used and can be found here: www.barnsley.gov.uk/services/our-council/information-we-publish/fraud-data/.