

WAVERLEY BOROUGH COUNCIL

EXECUTIVE - 05/03/2013

Title:

TENANCY FRAUD POLICY

[Portfolio Holder: Cllr Keith Webster]

[Wards Affected: All]

Summary and purpose:

This report presents the Tenancy Fraud Policy for approval. The policy states the Council's commitment to tackling Tenancy Fraud and formalises working practices in preventing and responding to tenancy fraud.

How this report relates to the Council's Corporate Priorities:

The Policy relates to Affordable Housing and Value for Money by stating the Council's commitment to tackling tenancy fraud thus making the best use of housing stock.

Financial Implications:

The policy actions will be implemented within current resources.

Legal Implications:

Officers will require legal advice if tenant(s) fail to surrender tenancies voluntarily. Resources may be required for possession and potentially criminal cases.

Introduction

1. The Tenancy Fraud Policy has been developed to reiterate the Council's commitment to tackling Tenancy Fraud, formalise current practise and implement industry good practice.
2. The Tenancy Fraud Policy states the Council's commitment to dealing with tenancy fraud with the key objectives to:

- Underpin the Council's zero-tolerance approach to dishonest housing fraud, seeking prosecution and restitutionary payment (subject to the Prevention of Social Housing Fraud Bill)
 - Proactively prevent fraudulent activity
 - Raise awareness amongst staff and the public about tenancy fraud and what that means
 - Encourage residents and members of the public to report suspected cases of tenancy fraud to the Council
 - To deal effectively with reports and observations of tenancy fraud
 - Work in partnership with Registered Providers in the Waverley area (Housing Associations) to share information, data and resources, where appropriate
3. The Policy can be found at Annexe 1.

Implementing Good Practice

4. There are three actions the officers wish to implement to reflect good practice in dealing with Tenancy Fraud.
5. The policy document states that officers will take photographs of tenant(s) when they sign up for a new tenancy to assist in addressing tenancy fraud. This will be implemented as part of the new Allocation Policy agreed by Council in December 2012.
6. The policy document states there is a dedicated email and online reporting system to report Tenancy Fraud. These will be developed and promptly implemented when the policy has been approved.
7. Thirdly, the policy refers to the Tenancy Fraud procedure. The procedure and training will be rolled out to staff when the policy has been approved.
8. In January 2013, the Council was given the opportunity to bid for grant funding of between £75,000 and £200,000 from Communities and Local Government (CLG) for 2013/14 and 2014/15 to deal with tenancy fraud in Waverley. A bid is being prepared for submission on 22 February 2013 to fund additional staff resources, credit checks, photographic equipment and an awareness campaign. Successful bidders will be informed by the end of March 2013.

Conclusion

9. The policy enables the Council to clearly state its intention of dealing with tenancy fraud. The policy formalises current practice and provides a framework for publicising, reporting, investigating, responding and reporting tenancy fraud.

10. The Corporate Overview and Scrutiny Housing Improvement Sub-Committee on 7 January 2013 had no particular comments to make on the policy and resolved to endorse the policy and commend it to the Corporate Overview and Scrutiny Committee and Executive for approval.

Recommendation

It is recommended that the Executive approve the Tenancy Fraud Policy and the submission to Communities and Local Government at Annexe 1 be endorsed.

Background Papers

There are no background papers (as defined by Section 100D(5) of the Local Government Act 1972) relating to this report.

CONTACT OFFICER:

Name: Annalisa Howson

Telephone: 01483 523453

E-mail: annalisa.howson@waverley.gov.uk



Tenancy Fraud Policy

Date: Draft December 2012

Policy author: Daniel Brett

Approved by:

1. Introduction

- 1.1 This policy outlines Waverley Borough Council's approach to dealing with tenancy fraud.

2. Policy Aims & Objectives

- 2.1 Waverley Borough Council is committed to dealing with tenancy fraud. Waverley Borough Council will tackle unlawful subletting and tenancy misuse promptly and effectively, to ensure all its housing stock is used by those with legitimate housing need.

- 2.2 The key objectives of the tenancy fraud policy are to;

- Underpin the Council's zero-tolerance approach to dishonest housing fraud, seeking prosecution and restitutionary payment (subject to the Prevention of Social Housing Fraud Bill)
- Proactively prevent fraudulent activity
- Raise awareness amongst staff and the public about tenancy fraud and what that means
- Encourage residents and members of the public to report suspected cases of tenancy fraud to the Council
- To deal effectively with reports and observations of tenancy fraud
- Work in partnership with Registered Providers in the Waverley area (Housing Associations) to share information, data and resources, where appropriate

3. What is tenancy fraud?

- 3.1 Tenancy fraud or misuse can present itself in various forms and can occur at any stage during a tenancy lifecycle.

3.2 The following list is not exhaustive, but does include the main types of tenancy misuse:

- Unauthorised subletting:
 - Subletting the whole property to a single household or
 - Multiple sublets within one property, without prior consent from the Council
- Non occupation by the tenant(s) as their main and principal home
- Wrongly claimed succession – retention of a tenancy following the death or vacation of the tenant(s)
- Unauthorised assignment of the tenancy - mutual exchange or transfer of tenancy without permission from the Council
- Key selling – where the tenant leaves the property and passes on the keys in return for a one off lump sum payment or favour
- Fraudulently obtaining a social housing tenancy by misrepresentation of identity or circumstances

3.3 In some instances unlawful subletting can generate lucrative profits for individuals or organised groups. It is therefore essential that the Council can demonstrate that the tenants who should be occupying its homes really are in residence.

Please note – tenancy misuse does not refer to cases where tenant have taken in a lodger or sublet with the Council's prior written consent, but does include unlawful subletting.

4. Impact of tenancy fraud

4.1 Failure to tackle tenancy fraud has a number of effects on both the Council and its residents. These are;

- the housing stock is not put to best use
- increased waiting times for prospective tenants and existing tenants wishing to move
- an increased risk of disrepair and damage to the property due to a reluctance to report repairs or accept improvements, and from modifications to make the property more suitable to sub-let
- an increased risk of criminal damage or anti-social behaviour
- added difficulties gaining access to carry out maintenance repairs or gas servicing
- the unlawful sub-tenant(s) who may not be aware of their status can be vulnerable to being charged increased rents and deposits and are at risk of unlawful evictions and homelessness

- a drain on resources due to the costs of investigation and court proceedings.

5. What is Waverley Borough Council doing to combat tenancy fraud?

5.1 The Council has a range of measures to combat tenancy fraud. These are listed below:

5.2 **Awareness** – the Council highlights the consequences of tenancy fraud and the methods with which it can be reported via its website and tenants' newsletter.

5.3 **When making an application** – Prior to a potential tenant being accepted onto the Council's waiting list identity, address and financial checks are carried out to verify the information provided by the applicant(s).

5.4 **Start of the tenancy** – Before a tenancy is allocated the Council carries out a series of identification and verification checks to ensure that the prospective tenant and their family household/circumstances are what they say they are. Proof of essential data is required, such as birth certificates, passports, immigration papers or driving licences.

The Council endeavours at all times to ensure the right people are allocated to the right home. Staff involved in the process are aware of the potential for tenancy fraud and the importance of the sign up process for preventing tenancies being obtained by deception.

5.5 **Use of photographs** – the Council photographs new tenant(s) as part of our sign up process. The photographs are held electronically and/or physical copies are held on tenancy files to assist in confirming identity if required. Photographs can also taken at tenancy review visits.

5.6 **Welcome visits** – These are undertaken within four to six weeks of new tenant(s) moving in. The purpose of the visit is to ensure that the new tenant has moved in, has settled in and is using the property as their main and principal home. The visit is also an opportunity to check that they have no outstanding issues and they are receiving any help or support they may require.

5.7 **Tenancy review visits** – These are held at least annually and are designed to capture other data required on household members for wider purposes (such as overcrowding), alongside ensuring the tenant is not sub-letting part of their home without consent and is using the property as their sole and principal home.

5.8 **Responding to reports** – The Council takes all reports of alleged tenancy fraud seriously and commits to undertake an investigation in accordance with the Corporate Prosecution Policy. The Council has a dedicated email address and online reporting mechanism for people to report suspicions of tenancy fraud. Reports can also be made by phone or in person.

Staff have a clear Dealing with Tenancy Fraud procedure and receive relevant training. If the tenant is vulnerable or elderly and the property has been taken over by illegal occupants without the tenant's permission the Council will work with the tenant to regain occupation of their property.

- 5.9 **Publicity campaign** - The Council will undertake periodic publicity campaigns to raise awareness with residents and the public that they are able to report suspected cases of tenancy fraud (anonymously if they wish in accordance with the authorities whistle blowing policy).
- 5.10 **Court action** – Where there is deemed to be sufficient evidence of dishonest tenancy fraud the Council will pursue cases through the Courts in accordance with the Corporate Prosecution Policy, in order to re-possess the property and make an unlawful profit order against the tenant(s) in question.
- 5.11 **National Fraud Initiative (NFI)** – the Council is a member of the NFI and submits data bi-annually to be matched against private and other public sector bodies to highlight instances where data provided by one party matches that held by another, indicating possible cases of tenancy fraud within the borough.
- 5.12 **Registered Provider liaison** - the Council works with Registered Providers in the Waverley area to jointly tackle tenancy fraud and share information.
- 5.13 **Staff involvement in fraud** – the Council takes a zero-tolerance approach to staff proved to have been involved in tenancy fraud. Any staff implicated in a possible housing fraud in any manner will be referred to the Section 151 Officer (Deputy Chief Executive) in accordance with the Council's Anti-Fraud, Anti-Corruption and Anti-Bribery Policy.
- 5.14 **Whistle-blowing** – the Council actively encourages and protects whistle blowers raising suspected housing fraud. All whistle blowers will remain anonymous and be supported in their giving of evidence.

6. Performance Measure and Targets

- 6.1 Performance data about the effectiveness of our dealing with tenancy fraud will be gathered and reported annually via Housemark (National Benchmarking Service) to ensure and drive continuous improvement in our service delivery to our residents.

7. Responsibility and Reporting Arrangements

- 7.1 The Head of Housing is responsible for delivering this policy.
- 7.2 The Head of Housing is responsible for ensuring that all appropriate staff involved in the implementation of this policy are aware of and trained in this policy and its procedures

8. Monitoring and Review Arrangements

- 8.1 All suspected subletting reports received by the Council will be recorded. Housing fraud investigations and the subsequent results and actions of those investigations will be reported annually to Members. This will ensure the Council is effectively implementing this policy and associated documents, and that residents and staff are treated fairly and equitably.
- 8.2 Central monitoring of all reports will be undertaken on a quarterly basis. This will monitor the number of new cases received and any properties recovered through voluntary surrender or legal possession. Performance data will be included in the routine key performance indicator reports.
- 8.3 Trends and analysis of statistics will be monitored and will be used to compare externally with HouseMark on an annual basis. This will form part of the annual review that will be prepared and presented to the Head of Service, Corporate Management Team and Members.
- 8.4 This policy will be reviewed every two years, unless legislation or sector development require otherwise, ensuring that it continues to meet its objectives and take account of good practice developments.

9. Associated Documents

Tenancy Strategy

Tenancy Policy

Corporate Whistle-blowing Policy

Corporate Prosecution Policy

Corporate Anti-Fraud, Anti-Corruption and Anti- Bribery Policy