

Tackling fraud in the social housing sector

A short guide for directors and senior managers
of housing associations



This guide is for directors and senior managers of housing associations in England and Wales and their professional advisers. It is written specifically to help you understand, prevent and detect fraud, and it provides information about what you should do if a fraud is discovered.

It can also be used to educate staff about the warning signs and the potential risks of fraud.

The guide includes details of other sources of information, support and best practice.

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Housing associations fulfil a vital role in providing affordable homes to people with a low income. Unfortunately there will always be a minority of people who seek to defraud housing associations by obtaining properties dishonestly or by exploiting business, employment or online processes.

Housing associations that fall victim to fraud need to consider not only the direct financial loss. There may also be an impact on their reputation, on taxpayers' confidence, and most importantly on the end-users of social housing - the tenants and residents - who can be the most vulnerable members of our society.

As a director, chief executive or senior manager you have a responsibility to safeguard the assets of your association by having appropriate, robust and prudent risk and control frameworks in place.¹ That is why it is so important to understand what fraud is and how it is dealt with by the law, and to have a clear plan to prevent, detect and respond to it.

Housing associations can be attractive targets for fraudsters for the following reasons.

- ◆ Increasing property prices and a shortage of housing mean that more people than ever before are struggling to meet their housing and private rental costs, creating a lucrative market for people who are willing to exploit the sector for their own gain.
- ◆ A lack of specialist anti-fraud knowledge and skills within housing associations, particularly smaller ones, can easily allow fraud to go unnoticed.
- ◆ There is often little incentive to look for fraud, especially low-level fraud, when rents are being paid on time and no complaints are being received.



¹ Homes and Communities Agency (April 2015). *Governance and Financial Viability Standard Code of Practice*.

WHAT IS FRAUD?

Fraud can be broadly defined as the deliberate use of deception or dishonesty to disadvantage or cause loss (usually financial) to another person or party. Fraud can be committed by:

- ◆ someone from *within* the organisation such as a staff member or volunteer (this is called employee fraud, internal fraud or insider fraud);
- ◆ someone from *outside* the organisation such as a customer or service user, supplier, contractor or professional criminal (this is called external fraud); or
- ◆ a combination of an internal person and an external person working together (this is called collusion).

Under criminal law, fraud is mainly dealt with under the **Fraud Act 2006**. Fraud can be committed by any intentional false representation, failure to disclose information or abuse of position that is carried out to make a gain, cause a loss or expose another to the risk of loss. Convictions can result in a fine, imprisonment or both. For more information, read the Fraud Advisory Panel's guide on **criminal fraud in England and Wales**.

Tenancy fraudsters can also be prosecuted by local councils on behalf of housing associations under the **Prevention of Social Housing Fraud Act 2013** (PoSHFA 2013). Convictions can result in a fine, imprisonment or both. The courts also have the power to make the tenant pay back any profits made from the fraud.

Remedies are also available under the civil law to recover money lost through fraud. For more information, read the Fraud Advisory Panel's guide on **civil recovery: a summary of key measures**.

Important differences exist between civil and criminal proceedings and these have implications for fraud investigations and the burdens of proof that must be met in court. The Fraud Advisory Panel has produced a helpful guide to explain **the criminal and civil justice systems in England and Wales** and an **online interactive decision tree** to help you choose the right route.

TENANCY FRAUD

Tenancy fraud (also called social housing fraud) occurs when a housing association or council home is occupied by someone who is either not legally entitled to be there or has obtained use of the property fraudulently.

Tenancy fraud causes significant social harm and can lead to antisocial behaviour. It deprives legitimate and deserving tenants access to affordable homes and has a direct impact on local people, their families and their communities.

Some common examples of tenancy fraud are set out below.

- ◆ **Application fraud** (also called allocation fraud): A prospective tenant either knowingly provides false information on their housing application in order to gain a property or applies for multiple properties in different locations and through different landlords.
- ◆ **Key-selling fraud**: A tenant or an employee of a housing association receives a one-off payment to give the keys of a property to someone who is not entitled to live there.
- ◆ **Right-to-buy/right-to-acquire fraud**: A tenant knowingly provides false information when applying to buy the house they live in under the scheme.
- ◆ **Subletting fraud**: A tenant rents out all or part of their property on a short- or long-term basis to someone else for private rental rates without the knowledge or permission of the landlord.
- ◆ **Succession fraud**: A person moves into a property when the legal tenant either dies or moves away, and that person does not have the right to move in.



Right-to-buy/Right-to-acquire fraud

Proposals to extend the Right-to-Buy (RTB) scheme may increase fraud risks for housing associations over the coming years. Risks include applicants misrepresenting the length of their tenancy or their household composition, concealing their tenancy history, or purchasing the property when it is not being used as their sole or main home.

It is estimated that 1.5% of all RTB applications received by local councils are fraudulent, and that number increases to 3% in London.² In anticipation of these changes, housing associations should start to review their anti-fraud controls and their stance on recovering properties that are purchased fraudulently.

CORPORATE FRAUD

Whenever an organisation acquires goods or services from another party, when it employs people or looks to outsource an internal function, there is a risk of fraud. Some common examples of corporate fraud affecting the social housing sector are set out below.

- ◆ **Employee fraud:** A staff member temporarily changes the payment details of a legitimate supplier or submits false invoices so that payments are diverted to their personal bank account (or that of a friend or relative) instead of the legitimate bank account of the supplier. An employee may also set up fictitious (or ghost) employees or submit false or inflated expense claims for travel or subsistence.
- ◆ **Supplier fraud:** A supplier submits false, inflated or duplicate invoices, or supplies substandard or defective goods to the organisation. A group of suppliers may work together to manipulate the tendering process to their advantage (eg, to claim greater than permitted rates on a framework agreement which governs the terms of the contract between the organisation and the supplier).
- ◆ **Mandate fraud:** A third party impersonates a legitimate supplier and asks the finance team to change the supplier's bank account details to divert future payments. This may be coupled with sophisticated techniques to trick staff into disclosing information that can be used to make the fraud more convincing. Also see Online crime.

- ◆ **Bribery and collusion:** A staff member colludes with a third-party contractor or supplier to receive a financial kickback or other benefit. For example, an employee may receive a share of the profit on a contract in return for assisting the supplier to be awarded the contract. Other examples include an employee selling a bidder's tender details to a rival bidder or agreeing to pay an inflated price for goods and/or services and splitting the profits with the supplier.
- ◆ **Online crime:** This is an increasing threat to organisations and includes phishing and malicious software (called malware) designed to damage or disrupt computer systems or steal business information. For example, a finance team may receive a legitimate-looking email purportedly from the chief executive (but in reality a fraudster) asking for an immediate payment to be made to a 'contractor' for an amount unlikely to raise suspicion, or for confidential business information to be emailed to them. Also see Mandate fraud.

The cost of employee fraud

Research suggests that once the costs of dealing with the fraud are taken into account, the true cost of insider fraud can be much higher than the initial amount lost to the fraudster. These costs may include regulatory penalties, disciplinary processes, investigation costs and recruitment of replacement staff etc.³

2 The European Institute for Combating Corruption And Fraud (2015). *Protecting the English Public Purse 2015: Fighting fraud against English Councils*.

3 Cifas (2013). *The True Cost of Insider Fraud*.

By implementing a few simple precautionary measures you can significantly reduce the chances of your organisation becoming a victim of fraud.

PREVENTING FRAUD: WHY IS IT IMPORTANT?

- ◆ Social housing fraud deprives people who are genuinely in need of affordable housing, including older people and the vulnerable. With demand for affordable homes currently outstripping supply, it is important to protect housing stock and (where applicable) the taxpayers' investment from fraud.
- ◆ Prevention is always better than cure. It can be a very difficult and expensive process to end a housing association tenancy or to take action against a tenant, employee, supplier or other person. So stopping fraud in the first place can be much more cost effective in the long term.
- ◆ The impact of fraud can extend well beyond the direct financial loss. It can negatively affect staff morale, the organisation's reputation, and its ability to maintain existing homes and build new ones.
- ◆ Good fraud prevention can boost the confidence that your tenants, funders, staff, auditors, regulators and other stakeholders have in your organisation and its ability to protect income and assets.

FRAUD PREVENTION CHECKLIST

Many frauds can be prevented by taking some basic precautionary measures.

- ◆ Introduce and maintain policies on fraud, bribery, corruption and whistleblowing as well as a code of conduct or ethics. Ensure organisation-wide awareness of these.
- ◆ Include fraud risks on your risk register and review these regularly (eg, six-monthly or annually). Specifically consider fraud risks as part of every new project or activity and as business processes change.
- ◆ Put in place appropriate internal financial controls for income, purchases, payments, property and investments to reduce the risk of loss through fraud, theft and error. Monitor compliance with the controls and carry out regular reviews.
- ◆ Analyse your housing management and financial systems to spot any common red flags of potential fraud that may warrant further examination.
- ◆ Conduct due diligence on tenants and business partners at the beginning of your relationship with them and then periodically throughout it. Checks can be made with credit reference agencies, local authorities and/or through shared fraud databases. For more information, read the Fraud Advisory Panel's guide on **third-party due diligence**.
- ◆ Have staff vetting procedures in place and carry out all relevant checks before an employee is appointed. Periodic checks may be appropriate for staff in high-risk areas (such as finance) or when they are promoted. For more information, read the Fraud Advisory Panel's guide on **pre-employment screening**.
- ◆ Provide mechanisms (such as dedicated phone lines or web pages) for concerned staff, neighbours, suppliers and other stakeholders to report suspicions or concerns about fraud. Promote these widely using a variety of methods and explain clearly how to access them.
- ◆ Keep up to date on the latest fraud threats affecting the business community in general and the social housing sector in particular. Remain vigilant for signs that they might be occurring within your organisation. Make sure relevant people are told about these risks and are trained to identify and deal with them.
- ◆ Share best practice and lessons learnt with other housing associations and local councils. Consider joining relevant sector networks to facilitate this.

Additional steps to prevent tenancy fraud

- ◆ Have a dedicated tenancy fraud policy that covers subletting, application, succession, key-selling, right-to-buy and right-to-acquire fraud. Clearly communicate it to staff, tenants and any delivery partners.
- ◆ Conduct checks on new applicants as part of the application process such as identity, residency status, and tenancy history, etc. All new tenants should complete a housing application form and sign the relevant declarations, regardless of how they are obtaining the tenancy – be it through assignment, council nomination, mutual exchange or succession.
- ◆ Get colour photographs of new tenants and/or their signatures (to help to establish identity) as part of the allocation process, and review them during the tenancy audit process.
- ◆ Conduct tenancy audits on either an annual, risk-based or rolling basis to check that the authorised tenant is living at the property. Combine this with other planned visits (where appropriate) such as an annual gas safety check or a property valuation.
- ◆ Train frontline staff to spot fake and forged documents and the warning signs that indicate fraud may be taking place throughout the tenancy lifecycle.
- ◆ For more information, read the Chartered Institute of Housing's guides on **preventing tenancy fraud** and **how to prevent right to buy and right to acquire fraud**.

DETECTING FRAUD: HOW TO SPOT THE WARNING SIGNS

Determined and skilled fraudsters will continually look for new weaknesses to exploit. This means that even the most robust preventative measures will not stop all frauds all of the time. Fraud detection techniques can help to uncover actual or potential fraud at the earliest opportunity.

Detection is an ongoing process that uses a combination of techniques that are proactive (eg, risk assessments and staff training) and reactive (eg, responding to reports of fraud), together with manual checks and balances, and automated data mining and analysis processes. For more information, read the Fraud Advisory Panel's **introduction to fraud detection**.

There are a number of warning signs or 'red flags' that can indicate that something is not quite right. These should not be used as evidence that fraud is occurring (there may be a legitimate explanation for them) but can indicate that further examination is needed – especially if more than one flag is evident. For more information on common behavioural,

financial and procedural red flags, read the Fraud Advisory Panel's **introduction to fraud indicators** and the Chartered Institute of Housing's guide on **detecting tenancy fraud**.

Tenancy fraud warning signs include:

- ◆ no repairs raised
- ◆ credit on rent
- ◆ high arrears on rent
- ◆ antisocial behaviour
- ◆ high number of complaints
- ◆ known fraud 'hotspots'.

WHAT TO DO IF YOU DISCOVER A FRAUD

The discovery of fraud can cause shock, disbelief and uncertainty throughout an organisation. It is important to know what do when a fraud is suspected or uncovered so that action can be taken in an appropriate, effective and timely manner. Procedures are usually set out in the fraud response plan which explains how and by whom a fraud will be investigated, reported and dealt with.

Typical elements of a fraud response plan include:

- ◆ objectives, scope and relevant policies
- ◆ roles and responsibilities
- ◆ investigation process and evidential procedures
- ◆ reporting requirements (internal and external)
- ◆ recovery of losses
- ◆ follow-up action (ie, acting on lessons learned)
- ◆ public relations.

It is important to understand who will be in the investigation team (including who should lead it). The team will usually consist of senior staff members from a number of different functions such as finance, risk and assurance, human resources (if the fraud relates to an employee), information technology and public relations (to deal with reputation management issues). It may also be appropriate to include someone from the department in which the fraud occurred, though care should be taken to avoid including anyone who could potentially be implicated in the fraud (either directly or indirectly).

It is critical to know what the organisation's objectives and priorities are at the outset of any investigation as these will inform the steps taken. A decision will need to be made as to whether a criminal conviction is sought or whether recovery of loss or stopping a loss is the key issue.

CASE STUDY 1

Subletting

Following an allegation of unlawful subletting an investigation was launched jointly with the local council. Credit checks revealed the tenant had links with a second social housing property and this was subsequently confirmed by the housing provider. As it turned out both properties were being sublet and additional enquiries under PoSHFA 2013 and using social media revealed the tenant to be living abroad. Once email contact was made both tenancies were surrendered immediately.

CASE STUDY 2

Key-selling

A tenant who wanted another person to be added to their tenancy was refused because no proof of identify was provided. Sometime later the property was reported as having been abandoned, but an investigation found a subtenant living there. The real tenant had 'sold the keys' to a letting agent for a two-year period and that letting agent was the same person who had previously been named as the prospective joint tenant. The original tenant was currently living at a property that they owned and from which they ran a successful business. Nonetheless, they refused to concede vacant possession, saying that the property was theirs and that 'anyone could live there'. The court ordered outright possession and awarded full costs against the tenant.

CASE STUDY 3

Business use

When an overgrown garden aroused the interest of a housing officer, enquiries with utility companies found a suspicious pattern of energy use. Investigations using public sources revealed the tenant to be the landlord of a local pub who was using the property as overflow accommodation for his B&B business. The local authority confirmed that the pub's licensing conditions required the landlord to live on-site. The property was surrendered when the tenant was invited to an interview under caution with licensing officers present.



Some key questions to consider are as follows.

- ◆ Do we need to stop an ongoing loss of data, goods or money?
- ◆ Do we want to recover the money (or data) that has been stolen?
- ◆ Are any tenants affected and do we need to protect them from harm?
- ◆ Are any reputational issues likely to arise?
- ◆ Do we need to suspend staff?
- ◆ Do we need to suspend third-party payments?

Contacting the local council and/or external advisers

Some housing associations have arrangements in place to refer tenancy fraud cases to their local authority to carry out investigations on their behalf in return for nomination rights over recovered properties. Councils often have in-house expertise in this area and can prosecute cases under PoSHFA 2013. This may be particularly helpful for smaller housing associations that do not have their own dedicated anti-fraud resource. Housing associations can rely on convictions obtained under PoSHFA 2013 to prove beyond reasonable doubt that the tenant has sublet or otherwise parted with possession.

Housing associations can also choose to join schemes that offer shared investigatory and other services. In other cases, it may be necessary to obtain external professional advice from lawyers, forensic accountants or auditors and/or IT specialists regarding how best to undertake the investigation.

It is important to choose professionals that have experience in dealing with fraud investigations and understand how the regulators expect fraud to be dealt with. This will strengthen your position when the matter is reported and is likely to provide some assurance that the matter has been handled appropriately.

Insurance

Insurance policies may be in place to protect against fraud losses such as corporate crime or fidelity cover. Understanding how these policies work and what they cover is crucial *before* a fraud is discovered. Some may require Disclosure and Barring Service (DBS) checks (previously CRB checks) to be undertaken on staff working in certain functions such as finance. Most will expect a police crime reference number in order to make a claim. Also see Action Fraud and/or the police.

REPORTING FRAUD TO EXTERNAL AGENCIES

Reporting fraud to relevant external agencies, such as regulators, police and other key stakeholders, is important and can help to demonstrate that your housing association takes fraud seriously. When making a report you should be prepared to tell them:

- ◆ the type of fraud and the amount involved
- ◆ who committed the fraud and how
- ◆ how it was discovered (eg, internal controls, whistleblowing, bank, auditors)
- ◆ what agencies have been notified
- ◆ the actions taken to deal with the fraud and to prevent a recurrence
- ◆ the actions taken to deal with the fraudster and to recover any losses
- ◆ whether the loss is covered by insurance.

Homes and Communities Agency

Housing associations that own 1,000 social housing units or more are required to submit an annual report to the regulator detailing any losses from fraudulent activity. This can be on a 'nil' basis. Smaller social landlords may choose to do this.

All housing associations (regardless of size) should report material fraud at the earliest opportunity. 'Material' is not defined, so you will need to decide whether the fraud is serious enough to report. Ask yourself: 'If I was the regulator, would I want to know about this?' If in doubt, speak to them.

For more information, read the Homes and Communities Agency guidance on **governance and financial viability standard code of practice** as well as the NROSH+ **fraud guidance for registered providers** and the **fraud reporting template**.



Charity Commission

Housing associations which are also registered charities (but not exempt charities) should report any actual or suspected fraud to the Charity Commission under the 'Reporting Serious Incident' regime.

You will need to decide whether the incident is serious or significant enough to report, taking into account the actual harm and potential risks posed to the association, its beneficiaries, assets and reputation. If your association has income over £25,000 you must also confirm that you have reported any serious incidents to the Commission as part of your annual return.

For more information, read the Charity Commission's guidance on **reporting serious incidents: guidance for charity trustees**.

Action Fraud and/or the police

Fraud can be reported to Action Fraud (the UK's national fraud and cybercrime reporting centre) by calling 0300 123 2040 or using the **online reporting tool**. A police crime reference number will be given.

If the victim is vulnerable (ie, they are under 18, have a physical disability or a mental disorder), or the crime is still ongoing, money is at risk, or the suspect is locally known, then the matter should be reported to the police by visiting a **local police station** or by calling 101. You should call 999 if you are in immediate danger.

Other agencies

Finally, you may want to consider whether you have an obligation to tell anyone else, such as:

- ◆ your bank
- ◆ your insurance company
- ◆ your auditors
- ◆ the local council or
- ◆ the Care Quality Commission.



Useful contacts

Action Fraud

Action Fraud is the UK's national fraud and internet crime reporting centre. It takes reports from people and organisations that have been scammed, defrauded or experienced cybercrime. It also provides preventative advice. actionfraud.police.uk

Charity Commission

The Charity Commission registers and regulates charities in England and Wales. It ensures that charities meet their legal requirements and provides guidance to help charities run as effectively as possible. gov.uk/government/organisations/charity-commission

Chartered Institute of Housing

The Chartered Institute of Housing provides advice, support and knowledge to people involved in the housing sector. cih.org

Fraud Advisory Panel

The Fraud Advisory Panel is the independent voice of the anti-fraud community. It champions anti-fraud best practice and works to improve fraud awareness, understanding and resilience. fraudadvisorypanel.org

Homes and Communities Agency

The Homes and Communities Agency (HCA) regulates social housing providers in England. It helps to create successful communities by making more homes and business premises available to residents and businesses that need them. gov.uk/government/organisations/homes-and-communities-agency

National Anti-Fraud Network

The National Anti-Fraud Network (NAFN) provides a variety of data services to members to help them protect public funds. nafn.gov.uk

National Housing Federation

The National Housing Federation (NHF) represents and supports the work of housing associations and campaigns for better housing. housing.org.uk

Tenancy Fraud Forum

The Tenancy Fraud Forum brings together social landlords to combat tenancy fraud. It also offers some free training. tenancyfraudforum.org.uk

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Chartered Accountants' Hall, Moorgate Place, London EC2R 6EA, UK
T +44 (0)20 7920 8721 E info@fraudadvisorypanel.org
www.fraudadvisorypanel.org

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