

Tenancy Fraud



Approved By	Andrew Bircher Assistant Director Customer Services	Version	V1.1
Date Approved	July 2020	Implementation Date	July 2020
Author	Business Partner (Tenancy Management)	Approval Level	
Approver		Review Date	April 2021
Links	<ul style="list-style-type: none"> • Tenancy Policy • Lettings Policy 		

1. Purpose

- 1.1. This policy sets out mhs homes approach to tenancy fraud and the actions that should be taken when this is identified.
- 1.2. We are committed to making the best use of our properties, ensuring that they are occupied in accordance with contracts/tenancy agreement, the law and regulatory frameworks. We recognise that tackling fraud is an effective way to achieve this.
- 1.3. mhs homes are committed to taking effective action and using the powers available to us, where we consider they can provide effective remedy.

2. Definitions

Unlawful subletting – this is where a tenant lets out their home without the knowledge or permission of their landlord. Detection in this area is difficult as the original tenant often continues to pay the rent for the property directly to their landlord, whilst charging the person they are subletting to a much higher rate.

Obtaining housing by deception – this is where a person(s) obtains a tenancy via the local authority or housing association by giving false information in their application for housing, for example not declaring that they are renting another council or housing association property or by giving false information about who lives with them or submitting false information to purchase a home under the right to buy scheme.

Tenancy succession by deception – this is where a tenant dies and someone who is not eligible tries to succeed the tenancy.

Key selling – this is where the legal tenant is paid a one-off payment to pass on their keys. Tenancy fraud may prevent an eligible household in need of accommodation from being housed.

3. Who does this affect?

- 3.1 This policy applies to customers of all tenures living in a home owned or managed by mhs homes, including general needs, sheltered housing and market rent. It also applies to customers in shared ownership properties. If necessary, we may take legal action under the terms of the tenancy/lease and other relevant legislation available to us.
- 3.2 The term 'we' and 'our' relates to all concerned unless otherwise stated.
- 3.3 Properties managed by mhs homes on behalf of Clarion Housing Association and Heart of Medway Housing Association.

4. Legislation and regulation

Government legislation has an impact on how we implement our Tenancy Fraud policy. Listed below are the key Acts that cover our work.

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

The above documents are available on this website www.legislation.gov.uk

4. Policy Statement

To ensure effective detection and prevention of fraud we will;

- Respond to cases of suspected tenancy fraud and cases where fraud is identified.
- To provide information to mhs residents and stakeholders of the organisation's approach to tackling tenancy fraud.
- To provide guidance to staff on the actions to prevent, detect and take action against suspected tenancy fraud.

4.1 Proactive measures

mhs will take the following proactive measure to deter fraud;

- a) mhs will request photographic proof of identification from all prospective tenants and shared owners.
- b) As part of the offer of a new tenancy, customers will be required to complete a household information sheet of all occupants that will be living at the property. This will be crossed checked against the original housing register application.
- c) mhs homes will undertake further checks where concerns are identified about the validity of the customers claim to a home. They may include:
 - Checks against the electoral register

- Checks against National Anti-Fraud Intelligence Network
- Check local authority records.

mhs homes will also take part in the bi-annual data matching exercise administered by the Cabinet Office.

4.2 **Detection**

Each year MHS will conduct scheduled tenancy audit visits of households to check that residents of our homes are the intended occupants. Residents will not be notified about these checks in advance. For Heart of Medway housing stock all reports of suspected tenancy fraud will be dealt with in accordance with the **Prevention of Social Housing Fraud Act 2013**. Subject to the provisions of the Data Protection Act, MHS will share information regarding our residents with local authorities and other agencies to detect, investigate and take legal action in cases of suspected tenancy fraud.

4.3 **Suspected tenancy fraud**

Where a case of suspected tenancy fraud is investigated, the evidence collated will be reviewed to assess whether an allegation of tenancy fraud can be substantiated. Investigation will include a check to see if there has been fraudulent use of any car parking space or garage assigned to the tenancy

Where it is believed that evidence has been obtained to support a case of tenancy fraud, the resident will be notified, and they will be requested to provide an explanation regarding the use of their home. If the evidence that they provide does not counter the evidence collated, legal action to recover possession of the property will be undertaken. Where legal action to recover possession of a property is successful, court costs will be sought against the MHS tenant or shared owner.

4.4 **Recovered properties**

- Properties recovered from fraudulent use will be re-let in line with MHS's Lettings Policy in the case of general needs housing and private rented properties.
- Resold in line with regulatory requirements, in the case of shared ownership housing.

4.5 **Approach to unauthorised occupants**

MHS's approach to unauthorised occupants, in terms of both advice and assistance offered to them, will be determined by the individual circumstances.

We aim to ensure that each property is let to and occupied by the person(s) to whom we have allocated it. We will verify the identity and circumstances of prospective residents.

Where checks and reports identify high risk tenancy fraud mhs homes will provide evidence-based cases for Court with the objective of recovering possession of the property.

Our tenancy agreements include clauses relating to transferring tenancies, subletting, and absence from the home, succession and mutual exchanges. We provide guidance and information to tenants about their rights and responsibilities in relation to these and other clauses.

We will visit new starter tenants, who are living in one of our properties for the first time at least twice a year in the first year of the tenancy. Check the members of the household

against the paperwork when the property was let and update the system with any changes.

We maintain up to date policies and procedures on a range of tenancy matters that can give rise to tenancy fraud, including lettings, succession, assignment, mutual exchange and right to buy.

We will take steps to ensure that our properties continue to be occupied by the person(s) to whom we have allocated them in accordance with the relevant tenancy agreement for the duration of the tenancy.

We will publicise our approach to tenancy fraud and raise awareness of the issue. We will encourage residents to let us know if they suspect tenancy fraud. All reports of tenancy fraud will be dealt with in the strictest confidence.

We will work with local authorities and other organisations, take part in regional or countywide tenancy fraud forums and share data for the purposes of preventing fraud and/or reducing crime.

When visiting a customer's home, visits may include looking in each room, cupboards and wardrobes checking for signs of occupancy.

Using credit reference/data exchange agencies to check household members, establishing residency and to trace individuals where there is evidence to suggest they may be living elsewhere or committing fraudulent activity.

Staff may request to check utility bills or check meters to see if utilities are being used.

Sub tenants unaware of their status may be asked to give evidence against the tenant.

We may request information from other agencies such as the police through the appropriate information sharing channels.

6. Confidentiality

Under the Data Protection Act 1998 and the Human Rights Act 1998, all personal and sensitive organisational information, however received, is treated as confidential.

Officers will ensure that they only involve other agencies and share information with the consent of the resident concerned, unless:

- We are legally required to share data to detect and prevent fraud
- mhs cannot withhold information if being questioned by the Police during a criminal investigation it is for the purposes of investigating suspected tenancy fraud

Please refer to the MHS **Data Protection Policy** for further information.

7. Equality Statement

MHS recognises the needs of a diverse population and always acts within the scope of its own **Equality and Diversity Policy**, the Human Rights Act 1998 and the Equalities Act 2010. MHS works closely with its partners to ensure it has a clear understanding of its resident community with clear regularly updated service user profiles.

8. Monitoring and Reporting

Monitoring of cases of tenancy fraud will be undertaken and reports will be made as follows:

- Annually to mhs homes Board
- Annually to mhs Audit Committee
- Annually to the Regulator

9. Health & Safety

Officers will follow MHS's **Health and Safety Policy** and **Lone Working Policy**, at all times when managing cases of suspected tenancy fraud.

Change Log		
Version	Date	Change
V1.1	29/06/2020	Logo updated, layout style and order of text and updated the footer.
Minor Change – Approval by Director		
Major Change – Approval by ET		