

Tenancy Fraud Policy

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1 PURPOSE

- 1.1 This Policy acknowledges the Karibu's aims and objectives in relation to both the legal and moral importance of combating the threat of tenancy fraud. The policy also outlines responsibilities relating to the legal framework we are required to work with in this area.
- 1.1 This policy encompasses six complimentary strands that together form a holistic approach for tackling tenancy fraud within the Karibu varied business areas. Although the risk of tenancy fraud can never be completely removed, this policy seeks to set out an approach that prioritises prevention, however, should fraud be identified then robust measures will be employed to address and resolve the issue

2 SCOPE

- 2.1 This policy is intended for the use of the housing services residents and staff at Karibu Community Homes. It may be made available to other individuals, groups or organizations upon request, at the discretion of the Assistant Director of Housing Services.

3 LEGISLATION, REGULATION, GUIDANCE AND BEST PRACTICE

- 3.1 Government legislation has an impact on how Karibu Community Homes can implement its 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

3.2 This policy should be considered in conjunction with the following documents

- Safeguarding Policy
- Equality & Diversity Policy
- Domestic Abuse Policy
- Anti-social Behaviour Policy
- Allocations Policy

4 INTRODUCTION

4.1 For the purpose of this policy, Tenancy Fraud falls into four defined categories:

- **Unlawful subletting** – where the legal tenant sublets the whole of their property, whether for profit or not, or allows their property to be sublet without the knowledge or permission of their landlord. Subletting is also made out if a tenant sublets the whole to a family member even if that person is an authorised occupier.
- **Unlawful tenancy succession** – where a tenant dies and someone who is not eligible tries to succeed the tenancy and misrepresents facts to achieve a succession.
- **Obtaining housing by deception** – this is where a person(s) obtains a tenancy via the local authority or housing association by providing false or misleading information in order to secure this accommodation. For example: not declaring ownership of private property, failure to disclose renting/occupation at another property and/or failing to be honest or accurate in respect of reported household composition. This would include an internal transfer request or a mutual exchange which takes place because of misrepresentation.
- **Key selling** – where the tenant, or someone acting on their behalf or with their acquiescence accepts payment to give a third party his or her keys.
- **Shared Ownership** – whilst included in obtaining housing by deception, has its own category as applicants might not be truthful about their financial or other circumstances in order to satisfy criteria.

4.2 The above definitions are for guidance only and are not exhaustive. It should be noted that incidents may include behaviour not perpetrated by the tenant, or prospective tenant, which still result in fraudulent use or acquisition of a social housing tenancy.

4.3 All the above examples of tenancy fraud may prevent an eligible household in need of accommodation from being housed.

5 LEADERSHIP, ROLES AND RESPONSIBILITY

5.1 Leadership and commitment

The Director of Customer and Communities is committed to supporting the delivery of this policy through people, systems, changes in regulation and sufficient allocation of resources.

5.2 Organisational Roles and Responsibilities

Responsibility for the day-to-day operational management of the service lies with the Assistant Director, supported by the Housing Manager and Head of Customer.

The Housing Officers have responsibility for the delivery of the content of the policy.

6 OPERATION

6.1 Tenancy Fraud Policy

6.1.1 Prevention.

Karibu Community Homes will request photographic proof of identification from all prospective tenants and shared owners and carry out necessary checks prior to properties being allocated. Prospective tenants will be asked to supply Karibu with a passport sized photograph to keep on file.

As part of a major tenancy fraud awareness campaign, Karibu may consider suspending investigations during an 'amnesty' period, whereby for a limited time, tenants or residents can return their property keys without further action being taken in relation to specific offences.

Karibu will promote publicity campaigns extensively through the Karibu Community Homes website and social media platforms. These will include success stories, case studies and updates of anti-fraud activity.

6.1.2 Detection.

Housing tenants and other residents not only have a unique opportunity to provide an essential source of referrals in relation to Tenancy Fraud but also have a direct interest in the proper allocation of Karibu's financial and housing resources.

Karibu maintains a Customer Contact Centre with staff available during office hours who are able to take reports of tenancy fraud from telephone callers and also via My Karibu app and our online reporting form.

Karibu Staff are encouraged to report allegations of suspected tenancy fraud by direct contact with the Housing Team in the first instance.

Those reporting tenancy fraud for Karibu must be informed that we will treat the information they give to us with the utmost confidence and the alleged perpetrator of the fraud will not be informed of the source of the information.

Karibu may from time to time participate in data-matching exercises that are specifically designed to identify potential fraud cases.

Each year Karibu may conduct scheduled tenancy audit visits on households to check that residents of our homes are the intended, lawful occupants. Due to the nature of this exercise the visits will usually be made without prior notice to tenants or occupants and may be made outside of normal working hours.

6.1.3 Investigation.

All investigations by Karibu in relation to reports of suspected Tenancy Fraud will be conducted in accordance with the Prevention of Social Housing Fraud Act 2013 and/or Fraud Act 2006.

Where it is believed that sufficient evidence has been gathered in order to indicate a likely case of tenancy fraud, the person(s) will be contacted and will be asked to provide an explanation regarding the allegations and the use of their home. Karibu may, in its discretion, provide the suspected person(s) with such evidence as has been gathered, but will not do so in all cases, particularly where the anonymity of other individuals needs to be protected.

Any person(s) subject to Investigation may be asked to provide the following evidence if Karibu considers that it is appropriate and proportionate to the investigation.

- Proof of ID
- Proof of residence
- Proof of income
- Bank statements but not from online bank accounts such as Monzo
- Utility Bills
- Electoral role
- Letters from the Benefits Agency
- Vehicle insurance documents
- Telephone and mobile 'phone contracts and bills
- Hospital letters
- GP registration

(This list is not exhaustive)

Having considered any evidence and/or explanations provided, Karibu will decide whether to pursue legal action to recover possession of the property, seek other relief including injunctions and/or recover any profits obtained through the alleged tenancy fraud. Where legal action is partially or wholly successful, court costs will be sought against the tenant, shared owner.

6.1.4 Partnership Working

Subject to the provisions of the GDPR/Data Protection Act, where appropriate, Karibu Community Homes 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.

This includes sharing information and working with partners where service level agreements are in place and or where it is proportionate, legal and appropriate to share information. Partners include.

- Local Authorities
- The Police
- Other Registered Social Landlords
- (This list is not exhaustive)

6.1.5 Confidentiality

Under the Data Protection Act 1998/GDPR and the Human Rights Act 1998, personal and sensitive organisational information, however received, is treated as confidential. This includes anything of a personal nature that is not a matter of public record about a resident, client, applicant, staff or committee member

sensitive organisational information

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

- It is for the purpose of investigating suspected tenancy fraud
- GDPR legal exemptions apply, negating the need for consent
- The information is necessary for the protection of children
- Karibu is required by law (for example Karibu cannot withhold information if being questioned by the Police during a criminal investigation)

Where a person has made a report of suspected tenancy fraud, they should be aware that Karibu will only be able to provide limited information on the investigation due to data protection considerations.

6.1.6 Enforcement

Where allegations of tenancy fraud have been corroborated, tenant(s) and/or other perpetrators will usually initially be asked to voluntarily surrender their tenancies and/or return any profit made unlawfully to Karibu Community Homes, where appropriate. Karibu community Homes reserves the right to serve NTQ & NoSP and reclaim any profit even if the property is handed back.

Failure to voluntarily surrender the property may result in legal action being instigated.

Karibu reserves the right to take civil action as appropriate, either independently or in conjunction with external partners. Karibu reserves the right to take criminal action as appropriate, either independently or in conjunction with external partners.

Karibu will seek financial redress wherever appropriate, which may include out of court settlements, unlawful profit orders (UPOs), third party money orders and unjust enrichment claims (this list is not exhaustive). Karibu may seek to recover monies directly from the tenant(s), other perpetrators or via court orders.

Karibu will seek to secure debts where appropriate against assets for example: Land Registry charges against private property, attachment of earnings or bankruptcy proceedings (this list is not exhaustive).

6.1.7 Recovered properties

Properties recovered from fraudulent use will usually be either:

- Re-let in line with Karibu asset management approach and/or Allocations processes (in the case of general needs housing)
- Re-let in line with Karibu internal management processes (Intermediate rent/Market Rent properties)
- Resold in line with regulatory requirements, in the case of shared ownership housing or as set out in accordance with business needs for any other properties

6.1.8 Subtenants and unauthorised occupants

Karibu's approach to subtenants or unauthorised occupants, in terms of both advice and assistance offered to them, will be determined by the unique circumstances of each case.

7 RISK MANAGEMENT

7.1 Actions to address risks and opportunities

- I. Regular case audits will be carried out by the Housing Manager.
- II. Tenancy fraud is dealt with within the terms of this policy.

8 SUPPORT

8.1 Resources

- 8.1.1 This policy will be implemented through the Housing Management Team. The Housing Team will issue the initial tenancy at the time of occupation, and will be responsible for tenancy reviews, successions and assignments.

8.2 Competence and Training

- 8.2.1 All staff must be adequately trained and have knowledge of the agreement and regulations of individual properties when they are becoming available to let.

8.3 Awareness and Communication

- 8.3.1 The policy will be available on the Karibu website and communicated to local authority partners.

8.4 Data Protection

- 8.4.1 Karibu will hold data as part of an investigation of tenancy fraud
- 8.4.2 is covered by GDPR as it contains sensitive data. Staff must be mindful of the sensitivity of the data they have access to.
- 8.4.3 All staff must be trained sufficiently to ensure the requirements set out in the GDPR are met.

8.5 Document, Records and information Management

- 8.5.1 Documentation of personal information relating to lettings is controlled by GDPR and should only be used for application purposes.

9 MONITORING

- 9.1 The Housing Management Team will regularly provide reports in relation to caseload, progress, reporting trends and risk to the Executive Team, Audit and Risk Committee and Board.

10 BREACHES OF THIS POLICY

- 10.1 Any tenancies not let within the remit of this policy must be authorised by Housing Manager or Assistant Director.

11 CONTINUOUS IMPROVEMENT

- 11.1 The handling of tenancy fraud will be monitored for service improvements through the Customer Feedback and Tenancy Management.

12 REVIEW

- 11.1 The Tenancy Fraud Policy will be reviewed every 3 years or earlier in response to regulatory or legislative changes.

13. EQUALITY IMPACT ASSESMENT

- 13.1 Under the Equality Act 2010 Karibu must consider whether our policies adversely affect our customers and/or staff.
- 13.2 The following table identifies whether this policy disproportionately impacts upon any individuals in regard to the key protected characteristics, as identified in the Act

Special Characteristic	Any impact? (Yes or No)
Age	No
Disability	No
Gender reassignment	No
Marriage and Civil partnership	No
Pregnancy and maternity	No
Race	No
Religion or belief	No
Sex	No
Sexual orientation	No

- 13.3 We do not consider this policy to disproportionately impact on any individuals in regard to these characteristics and therefore a detailed Equality Impact Assessment is not required