Neighbourhoods and Communities

Tenancy Fraud Policy

Regulation & Legislation	This policy links to The Regulator of Social Housing (RSH) Tenancy Standard 2.2.1
Supporting documents	Lettings of Homes Policy; Anti-Social Behaviour Policy; Domestic Abuse Policy; Hate Indecent Policy; Safeguarding Policy; Tenancy Fraud Procedure
Scope	This document outlines how Orbit approaches and manages Tenancy Fraud. It applies to our customers and others living in rented, shared ownership (including Aspire to Buy) and in some leasehold homes where sub-letting is prohibited.
Reference to "Orbit" means Orbit Group which consists of Orbit Group Limited, Orbit Housing Association Limited, Orbit Homes (2020) Limited, Orbit Treasury Limited and Orbit Capital Plc.	

1. Introduction

1.1 This policy demonstrates our strong commitment and outlines our response to dealing with allegations of Tenancy Fraud in our role as a Registered Provider.

1.2 We believe our homes should be let and occupied by those with a genuine need for social housing and not misused by others for personal gain. We recognise the importance of tackling tenancy fraud and acknowledge its effect and are committed to preventing and detecting it.

1.3 This policy is part of a suite under the umbrella of Community Safety and Anti-Fraud (CSAF). Other relevant policies are detailed in paragraphs 1.4 to 1.7 and 1.9 and 2.23.

1.4 Anti-Social Behaviour (ASB) - We recognise that allegations of ASB may have connections to allegations of tenancy fraud and we will apply either the ASB or Tenancy Fraud Policy as appropriate.

1.5 Domestic Abuse - We recognise the serious impact of domestic abuse and the role we have in tacking it as part of a multi-agency approach. In such cases we will apply our Domestic Abuse Policy.

1.6 Hate Incidents - We also recognise the serious impact of hate incidents and the role we have in tackling it as part of a multi-agency approach. In such cases we will apply our Hate Incident Policy.

1.7 Safeguarding - Where safeguarding concerns arise in dealing with allegations of ASB we will apply the Safeguarding Policy.

1.8 This policy relates to our customers and others living in rented, shared ownership (including Aspire to Buy) and in some leasehold homes where sub-letting is prohibited; however, it should be noted that some of the options available to us as a landlord may be limited. We will decide if action is possible or necessary on a case by case basis and will be open and transparent in order to manage expectations from the outset. In situations where we do not have the powers or tools to tackle the issue, we may if appropriate work in partnership with other organisations, or signpost as necessary.

1.9 Corporate Fraud – we recognise the importance of the Orbit Group Board and the Executive Team in having good oversight and we will apply the Business Standards and Professional Boundaries Policy to ensure this happens.

2. Policy Statement

Definition

2.1 The Audit Commission defines fraud as:

"Any intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of fraud".

2.2 In our role as a Registered Provider, we accept this definition and further define tenancy fraud as:

a) Fraudulently obtaining a social housing tenancy including
   i. Misrepresentation of identity
   ii. Misrepresentation of circumstances

b) Non-occupation by a tenant as their principal home

c) Keeping a social rented home when they own another property which has not been declared and accepted

d) Abandonment

e) Unlawful Subletting:
   i. the whole property to a single household, or
   ii. multiple sublets within one property

f) Unauthorised assignment

g) Key selling

h) Wrongly claimed succession

i) Failing to notify us when the tenant moves out or passes away

j) Right to Buy and Right to Acquire fraud

k) Dishonest assignment

2.3 We do not refer to people innocently subjected or exposed to tenancy fraud as 'victims' and instead refer to them as witnesses.

2.4 We refer to those people suspected of committing tenancy fraud as perpetrators.

Impact

2.5 We recognise that failing to tackle tenancy fraud impacts on both Registered Providers and the wider community in that:

- housing stock is not put to best use with those in greatest need not able to access social housing
- there are longer waiting lists with more people spending longer in unsatisfactory, overcrowded or temporary housing
- unauthorised 'tenants' can be exploited and open to increased rents and unlawful eviction
- there is a greater risk of properties being used for illegal purposes
- there is a greater risk of damage to properties resulting from modifications to make them more suitable to sub-let
- there is a greater risk of properties becoming unsafe for example electrical and gas safety checks not being completed
- a drain is placed on public resources for example fraudulent benefit claims

Prevention

2.6 As part of our drive to prevent tenancy fraud and also to support applicants for our housing; we will undertake a number of pre-sign up checks which may include face to face interviews, establishing proof of identity, credit referencing and also cross-referencing anti-fraud networks.

2.7 We reserve the right to temporarily refuse housing to applicants where there are grounds to suspect an application may be fraudulent, with a decision made following an investigation.

2.8 We reserve the right to refuse accommodation to applicants who have previously committed or have been a member of a household which has previously committed tenancy fraud.

2.9 We will also undertake planned activities in order to proactively identify and tackle fraudulent activity and these may include data matching using both internal and external data sources.

2.10 We may promote our approach to tackling tenancy fraud and also publicise action taken by us as part of our strategy to provide reassurance to the wider community and to prevent and deter tenancy fraud.

Reporting allegations

2.11 We aim to make reporting allegations easy and we accept allegations from anyone with reports able to be made online via our website, by email, by telephone, in writing and in person.

2.12 We will promote and encourage witnesses (customers, other residents, stakeholders and people unsuspectingly becoming part of fraudulent activity) to report suspected tenancy fraud to us via dedicated channels and without fear of being identified. We will also train our staff and others working on our behalf to be able to identify tenancy fraud and we will make reporting this easy.

2.13 In cases of suspected benefit fraud; we will promote and encourage witnesses to report this to the relevant organisation for example the Department for Work & Pensions (DWP) or Local Authority.

Positive actions

2.14 We may run defined amnesty periods from time to time where those committing tenancy fraud can surrender the property they are living in or controlling without fear of further action by us. It is in these situations that we will offer advice and guidance in respect of their legitimate housing needs.

2.15 We will also conduct a rolling programme of unannounced tenancy audits where occupants of properties will be required to prove their identity and right to reside in a property. The outcomes of these visits will result in either being marked as 'Successful' or 'Not Successful – Refer' with the latter cases being passed to our specialist Community Safety and Anti-Fraud teams for investigation.

Witness responsibilities

2.16 We expect our customers to adhere to the terms and conditions of their tenancy agreement.

2.17 We expect anyone to make allegations at the time of suspecting or becoming aware of fraudulent activity. We expect allegations to be factual and detailed enough for us to take action if necessary and we may refuse to accept an allegation if we are not given sufficient information.

2.18 If an anonymous allegation is made, we will only accept it if there is sufficient information and evidence to take action if necessary.

2.19 We will not disclose witnesses' details to an alleged perpetrator without their consent and only then if absolutely necessary, for example in Court proceedings.

Managing allegations

2.20 We will take all allegations seriously and will treat them on their own merits, using all available tools and powers as appropriate to resolve issues. Our focus is strongly on prevention, but also quickly tackling issues and we have dedicated CSAF teams who are appropriately trained to work with stakeholders and manage cases that fall under the Community Safety and Anti-Fraud umbrella.

2.21 If an allegation meets our definition, a case will be immediately opened and the case prioritised within 3 working days based on the information received and any other significant factors. This will include agreeing with witnesses how and when we will keep in contact, any support needs they may have, managing expectations and our intentions as to how we intend to manage the case with their support.

2.22 The circumstances of each case will be assessed on a case by case basis and decisions made on how best to proceed. In all cases an objective approach will be taken with high levels of awareness around those who may have unsuspectingly become part of fraudulent activity.

2.23 We will investigate cases in line with our Investigations Policy.

2.24 We aim wherever possible to tackle tenancy fraud and recover properties without the need for legal action. However, in situations where there is sufficient evidence of tenancy fraud and the property is not surrendered, we reserve the right to take legal action.

2.25 In cases of unlawful subletting; we reserve the right to engage with the services of a 'Prosecuting Authority' to conduct interviews under caution to seek a criminal prosecution and to pursue an unlawful profits order.

Legal action

2.26 Legal action will be taken in line with our Investigations Policy and Legal Services Procedure.

2.27 If a Tenancy Services Officer (CSAF) managing a case wishes to use a legal remedy requiring the services of a solicitor or barrister, they must adhere to the Legal Services Procedure.

Partnership

2.28 In some cases as a landlord, we will not always be the organisation with the responsibility or powers to deal with the allegation(s) made. In these circumstances we adopt a partnership approach and work proactively with other professional organisations such as the DWP, Local Authority or Police and share information in line with our Privacy Policy or other relevant legislation, or an Order of the Court as legitimate and proportionate. We may refer complainants or witnesses to other organisations as appropriate whilst always being clear about our responsibilities and capabilities.

2.29 Where we have an interest, but another organisation is leading, we may decide not to act until the outcome of their investigation is known.

2.30 We will work with Local Authorities to assist them fulfilling their duty to prevent homelessness in line with our 'commitment to refer' obligations.

Support

2.31 When dealing with allegations we will consider early on the support needs of witnesses, alleged perpetrators, staff and contractors. Where support needs are identified we will make individuals aware of the support available to them, or we may with permission, make a specific support referral ourselves but this will be at the discretion of the officer managing the case. We recognise that providing support may fall outside of our role as a landlord and it is in these circumstances, that we may signpost to external organisations.

2.32 We will as a matter of routine, offer to make a referral to Victim Support unless another organisation has already done so.

3. Roles and Responsibilities

3.1

Role	Responsibility
TSO	Compliance with this policy and associated procedures Case management
TSM	Approval for action Case Audits
Head of Tenancy Services	Final approval of legal Approval for Action Approval of legal budget spend
Interventions Co-ordinator	Performance monitoring and reporting

4. Performance Controls and Business Risk

4.1 Compliance with this policy will be monitored by monthly reporting and case audits.

4.2 Monitoring of live cases will be monthly by the relevant Tenancy Services Manager (CSAF) and measured against Key Performance Indicators and the Customer Promise.

4.3 Performance will be formally reported every April to the Customer Services Senior Management Team by the Head of Tenancy Services.

4.4 Levels, themes and activity in tackling Tenancy Fraud will be reported to the Audit and Risk Assurance Committee of the Orbit Board twice a year

4.5 Orbit will carry out a fundamental review of this policy every three years subject to legal, regulatory changes or in accordance with the agreed Policy Review programme.

5. Essential information

5.1 All Orbit policies and procedures are developed in line with our approach to the following, data protection statement, equality diversity and inclusion approach, complaints and customer care policy and our regulatory and legal obligations to Orbits privacy policy can be accessed on our website. www.orbitcustomerhub.org.uk/publications/policies/

EA	Equality Analysis was completed in Feb 2018 and is available to view.
DPIA	A DPIA has been completed against the supporting procedure and is available to view.
Consultation	**Internal**: Independent Living, Leasehold, Tenancy Services, Internal Audit
	External: Two customer focus groups were consulted on implementation of the policy in 2018
Applies to	All employees

Document control

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Revision History

Version Number	Date	Comments / Reason for revision
v1.1	Dec 2019	Statement on Commitment to Refer added
v2.0	May 2021	Three-year review – minor change: 1.9 policy document title amended