


Tenancy Fraud Policy

Housing Operations



December 2025
Version 1



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Introduction

- 1.1 The purpose of this policy is to outline the principles for managing and addressing Tenancy Fraud which impacts properties owned or managed by Milton Keynes City Council. It provides a framework which will enable colleagues to use a problem-solving approach when responding to tenancy fraud.
- 1.2 Milton Keynes City Council is committed to preventing tenancy fraud and recovering properties which are subject to unlawful abuse, using education, prevention, and where necessary, enforcement.
- 1.3 Milton Keynes City Council is committed to recovering properties which have been obtained by, or the subject of, abuse by fraud and bringing these properties back into circulation for re-letting without unnecessary delays.
- 1.4 This policy places a duty on all colleagues, contractors and agents to report any suspicions of tenancy fraud to Neighbourhood Services.

Aims

- 2.1 We aim to:
 - Investigate all reported allegations of Tenancy Fraud
 - Minimise the time a property is subject to fraud through robust investigations and timely outcomes.
 - Minimise the financial loss associated with tenancy fraud.
 - Act reasonably and lawfully when investigating tenancy fraud.
 - Prevent the misuse of our housing stock and allocations system including persons accessing the Housing Needs Register, by using robust, effective and timely housing management processes.
 - Raise awareness of social housing fraud and its impact on the housing waiting list and communities
 - Maximise the availability of Milton Keynes City Council properties by seeking to recover unlawfully rented and occupied homes
 - Take a zero-tolerance approach to tenancy fraud, taking swift enforcement action and prosecuting those proven to have committed tenancy fraud, where appropriate.

Definition of Tenancy Fraud

3.1 Milton Keynes City Council will apply the following definitions of Tenancy Fraud:

- a) Any property as owned or managed by Milton Keynes City Council which has been subject to abuse by fraudulent activity, including unlawful subletting.
- b) Any property as owned or managed by Milton Keynes City Council which has been obtained through deception, namely by making a false application or statement, or transferring or assigning a tenancy without authorisation.
- c) Any person who has engaged in fraudulent activity with the intention to cause loss to another (including to MKCC) or to make gain, whether financial or otherwise. Such activities may include the selling of keys, making a false statement, unlawfully subletting the property, committing fraud through false representation or any offence under the Fraud Act 2006 or the Prevention of Social Housing Fraud Act 2013.

Policy Statement

4.1 Milton Keynes City Council will prioritise and seek to recover any of its properties which have been subject to tenancy fraud in accordance with this Policy.

4.2 Milton Keynes City Council will carry out effective and timely investigations in relation to allegations of Tenancy Fraud. We shall:

- Accept reports of tenancy fraud through our customer services desk, via email and our webpage.
- Respond to reports of tenancy fraud within 5 business days.
- Carry out searches through the National Anti-Fraud Network (NAFN) for the purpose of obtaining personal data not limited to credit searches and bank statements.
- Request information through third parties not limited to AirBnB, Gumtree, social media entities and any other relevant organisation or party which may be legally required to disclose information for the purpose of preventing, detecting or otherwise assisting in the lawful investigation of tenancy fraud.
- Comply with any rule, code, guidance or legislation to ensure the lawful exercise of investigations, including, but not limited to, the Police and Criminal Evidence Act (PACE) 1984 and the Civil Evidence Act 1995.
- Obtain any evidence, including witness statements from residents, colleagues, contractors or other parties, to support the allegations made.
- Where necessary, carry out covert operations in accordance with the legal powers available to Milton Keynes City Council under the Regulation of Investigatory Powers Act (RIPA) 2000.
- Conduct data matching exercises with specialist companies for the purpose of detecting tenancy fraud within its housing stock.

- Seek the relevant and proportionate remedy through the civil and/or criminal courts. This may include, but not limited to, prosecution and obtaining unlawful profit orders and/or seeking possession of property.
- 4.3 Milton Keynes City Council will seek a fast and effective turnaround on properties which have been subject to fraudulent activity.
- 4.4 Properties which have been subject to tenancy fraud must only be recovered using the legal powers available and in accordance with this Policy.
- 4.5 Milton Keynes City Council will apply both civil and criminal law when tackling tenancy fraud across its housing stock.
- 4.6 Milton Keynes City Council will consider whether it's in the public interest to prosecute on each and every occasion. It will consider loss and gain, the longevity of the fraud, the impact, the prospect of a successful prosecution and any financial risk involved. for example, we may prosecute where there is:
- Sufficient evidence of significant loss and gain, or
 - Multiple or repeated instances of fraud by the same person.
- 4.7 In some instances, Milton Keynes City Council may accept an offer by the tenant to surrender the tenancy associated with the property, and the surrender of the tenancy may take immediate effect or for a term certain which is more or less than the term specified in the tenancy agreement. When a tenant surrenders the tenancy, they should be advised and given an opportunity to seek independent legal advice.
- 4.8 Tenants knowingly committing fraud will not be able to re-apply for council housing.

Legislation and References

- 5.1 The policies and legislation informs the management of Tenancy Fraud:
- General Data Protection Regulations 2018
 - The Equality Act 2010
 - Fraud Act 2006
 - Prevention of Social Housing Fraud Act 2013
 - Regulation of Investigatory Powers Act 2000 (RIPA)
 - Criminal Procedures and Investigations Act 1996
 - Police and Criminal Evidence Act 1984
 - Civil Evidence Act 2005
 - Abandonment Policy and Procedure

- Anti-Fraud and Corruption Policy
- Anti-Money Laundering Policy
- Complaints Policy
- Right to Buy Policy
- Allocations Policy

Publicity and Communications

Milton Keynes City Council will periodically undertake awareness campaigns to highlight the issue of tenancy fraud and encourage reporting. We may also publicise cases where we have taken action and successfully recovered a property. This will reassure the community, act as a deterrent and inform residents of action that has been taken to address tenancy fraud.

Reporting and Monitoring

- 7.1 Regular monitoring of service delivery will be monitored by the Housing Managers.
- 7.2 Our service standards will be reported back to the Head of Housing Operations on a quarterly basis. These are:
 - Number of cases of tenancy fraud.
 - Number of live investigations.
 - Number of properties recovered through this policy.

Implementation

- 8.1 The Head of Housing Operations is responsible for the implementation and monitoring of this policy.
- 8.2 Regular training for colleagues, case reviews, performance monitoring and reporting will be carried out by the Housing Managers.

Equality and Diversity

- 9.1 Milton Keynes City Council will ensure that in delivering our services we continue to be inclusive and representative. We will ensure that this is achieved through the delivery of our Equality and Diversity Policy.

- 9.2 Milton Keynes City Council will ensure that the Policy is widely available on our intranet, in Civic Building and on the website. The Policy can be made available in large print, Braille or on audio tape, upon request. Translations into other languages will also be available.
- 9.3 This policy will be applied to all residents regardless of age, disability, gender reassignment, marriage and civil partner status, pregnancy and maternity, race, religion and belief, sex and sexual orientation.
- 9.4 Milton Keynes City Council will not unlawfully discriminate, harass or victimise any person in the delivery of this policy.

Review

- 10.1 We will formally review this policy every 3 years unless changes in legislation, regulation or best practice require an earlier review.

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Version	Version 1
Date	December 2025
Amendments	
Consultation	Internal Audit Housing Operations Colleagues Resident Involvement Groups Cllr Hume Portfolio Holder for Housing
Approved by	Landlord Board
Approval date	09/12/2025
Effective from	09/12/2025
Review date	09/12/2028

