



How to...

*prevent right to buy and
right to acquire fraud*



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1 In April 2012 the Department for Communities and Local Government (CLG) introduced new measures to reinvigorate the right to buy scheme. Tenants are now entitled to significantly higher discounts when purchasing their socially rented property which has resulted in a recent increase in the number of right to buy applications.

Unfortunately the new measures have also led to a rise in the number of fraudulent applications and providers have to be ever more vigilant against this potentially criminal practice.

Housing providers seeking to protect their assets, and ensure that homes are only sold to tenants who legally qualify, should take steps to prevent fraudulent right to buy, and right to acquire applications. This is even more important when balanced against high levels of unmet housing need and a situation in which the homes sold are unlikely to be replaced on a one for one basis.

This 'How to' guide will explore what steps providers can take to protect themselves from fraudulent applications, using examples of good practice from the industry.

Discounts and incentives

As of April 2012, the discount available for tenants exercising their right to buy their socially rented property was increased to up to £75,000 off the purchase price, and, in March 2013, the level of discount rose to £100,000 for properties in London.

Housing association tenants who do not have the right to buy their home may be eligible to exercise the right to acquire. Right to acquire discounts are typically between £9,000 and £16,000 depending on the location. Although the losses in terms of discount are lower than for right to buy fraud, the impact of a fraudulent application in terms of the loss of a social rented home for people who need it is just as great.

Aside from encouraging many tenants to consider buying their home, the level of discount available may well motivate fraudulent applicants to try to purchase properties by claiming a discount they are not entitled to.

A recognised risk across the public sector

In its annual report into fraud in the public sector, [Protecting the Public Purse 2012](#), the Audit Commission highlighted that right to buy fraud was an emerging risk and significant area of potential financial loss for local authorities.

In 2011/12 the level of recorded right to buy fraud increased by 52 per cent, according to research by the [Audit Commission](#), compared to 2008/09 levels.

The vast majority of right to buy and right to acquire applications are genuine. However, given the value of social housing, both in terms of money and the provision of a home to someone in need, it's important that housing providers take steps to protect themselves from the minority of applications which are fraudulent.

What is right to buy and right to acquire fraud?

Right to buy or right to acquire fraud refers to any case where:

- a tenant has applied for, or completed, the purchase of a socially rented home under the right to buy or right to acquire schemes, and
- has misrepresented their circumstances to either gain a discount they are not entitled to, or exercised the right to buy or right to acquire when they are not entitled to.

The most common examples of right to buy and right to acquire fraud are:

- misrepresenting the length of a tenancy in order to gain a greater discount
- concealing a tenancy history, for example, not disclosing previous rent arrears, possession orders, transfers or evictions
- attempting to purchase a property whilst not using it as their sole or principal home
- misrepresenting the household composition, for example, submitting a joint right to buy or right to acquire application with someone who does not reside at the property, or has not done so for the required period.

Acknowledge the risks

Acknowledging the risk that right to buy and right to acquire fraud poses to your organisation is the first step in effectively protecting against it. You should already have a tenancy fraud policy, and it should make reference to the risk posed by right to buy and right to acquire fraud. Similarly, your right to buy or right to acquire policy should acknowledge the risk of fraud and refer to your tenancy fraud policy.

Prevention is better than cure

As with all types of tenancy fraud, the most cost effective way to tackle right to buy and right to acquire fraud is to prevent it from happening in the first place.

A fraudulent applicant may seek to misrepresent their circumstances in a number of ways in order to achieve the purchase of the property. Every provider will carry out some level of verification checks for applications; however, enhanced checks are often necessary to identify the fraudsters. Providers should consider the following:

Identity checks (for every applicant named):

- full UK or EU driving licence including photograph
- 10 year UK or EU passport with photograph
- EU identity cards
- UK identity card for foreign nationals/ residence permit issued by the Home Office
- UK certificate of naturalisation.

For each document you should check:

- that any photographs match the person in question
- that the date of birth provided matches your records, and is consistent with the person in question (do they look the right age?)
- that the documents are genuine, have not been altered or tampered with and belong to the person in question.

Residency checks:

- P45, P60 or pay slip
- a current benefit or pension claim letter, book or card
- a utility or council tax bill
- a bank or credit card statement
- a mobile phone bill.

Tenancy history and qualifying period:

- the tenant has been resident in social housing for the qualifying period (five years, but not necessarily consecutively)
- additional applicants have also been resident for 12 months
- historical details – have any transfers taken place during the tenancy? This may affect whether the tenant still has the preserved right to buy from a previous landlord
- have there been any notices to quit served by the tenant or joint tenant?
- check for any possession orders, even those that are suspended. Any type of possession order can be used as grounds to refuse a right to buy application.

Data sharing

Increasingly, housing providers share information about their tenants with external credit referencing agencies, local authorities or other housing providers in order to detect fraud. Data sharing can be used to identify where an individual has provided different and even conflicting information about themselves to different organisations, or where an individual is registered as living at more than one property. Further information on data sharing can be found in the CIH guide '[Tenancy Fraud and Data Sharing](#)'.

Who's home?

A right to buy or right to acquire application can lead on to uncovering another type of social housing fraud, for example, an unauthorised assignment or illegal subletting.

A tenancy check, or tenancy audit, is a good way to assess whether or not the authorised tenant is living at the property they have applied to purchase. The visit can be combined with the property valuation and carried out either by the quantity surveyor or by an accompanying housing officer. Even if it's not feasible to conduct a full tenancy audit, provide a photograph of the tenant to the property surveyor and ask them to make a referral if the person they were expecting to be there isn't around.

Learning from others

As part of the right to buy process, a **Barking and Dagenham Council** surveyor visited to complete a valuation of a one bed flat. The tenant was not at the property and he was met by someone claiming to be the tenant's uncle. He also noted that an unidentified teenager entered the property using a key, suggesting they were resident there. The surveyor's concerns were raised with the housing investigation team (HIT), who carried out preliminary checks and quickly established that the tenant had purchased two properties after obtaining her council tenancy. Electoral registration and council tax records indicated that she lived at these properties at different times over a number of years. The tenant also gave a further different home address on the birth certificate of one of her two children.

A cold call visit established that there were sub-tenants in occupation, who claimed that the tenant was out of the country. At an arranged interview with the tenant the next month, she claimed that her children were living elsewhere under the care of relatives, but would not provide specific details where, and she denied living elsewhere. It was explained further checks would be completed to establish where the children were residing but shortly after the interview the tenant handed in a notice to quit and returned the keys four weeks later.

As part of wider checks on housing applications for the tenancy address, it was found that an applicant who claimed to be sleeping on the sofa as a friend of the tenant, and who was subsequently housed by the Council, was actually the tenant's husband and father of their children. Officers also had good reason to believe the property allocated to the tenant's husband was also sublet.

As a result of the investigation findings, a notice of seeking possession was served and the property was subsequently vacated after the Council's legal team became involved. The actions of a conscientious surveyor therefore led to the stopping of a right to buy application and recovery of two Council properties for use by those in genuine need.

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Bolton at Home received a right to buy application for a two bedroom flat. Suspicions were aroused when the applicant phoned to enquire how soon he could rent out the property after he had purchased it. Bolton at Home launched an investigation, as they suspected the property was being sublet.

The applicant was hard to contact so the housing officer visited the property out of hours (early morning) and found a young mother and baby at the property, whereas the registered tenant was a single male. The housing officer checked key fob usage for the block of flats and correlated it to CCTV footage taken from the entrance door. The footage showed a young woman with a baby using a fob at times that matched the records for the tenant's fob.

Bolton at Home refused the right to buy application. However, the applicant then illegally evicted the subtenant and her child. The subtenant approached Bolton Council in need of emergency rehousing and agreed to give a full statement and provide evidence against her 'landlord', the registered tenant.

The property was recovered, and Bolton at Home is considering legal action under the Fraud Act 2006 against the applicant.

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Family affair

In some cases, family members may provide the finance for a relative to purchase their socially rented home. As long as there are no issues around undeclared income affecting an individual's entitlement to certain benefits, this practice is not against the law.

However, providers may wish to verify with the applicant that they understand the responsibilities associated with owning their own home. Providers should be alert to issues around vulnerability, particularly for older tenants, and seek to ensure the applicant is fully informed of the right to buy or right to acquire process.

Other fraud risks

Tenants are likely to be aware of the discount that is available to them under the right to buy and right to acquire schemes. Unfortunately, so will unscrupulous money lenders and property investors. Tenants have on occasion been targeted by rogue traders who will offer to help them purchase their socially rented home with financial assistance, and offer the tenant a short hold tenancy for the property until the debt is repaid. However, tenants are often evicted at the end of their short hold tenancy leaving them homeless and usually in debt. Providers should make tenants aware of the risks of these schemes and offer clear financial advice and assistance.

Money laundering

Anecdotal evidence from some social housing providers suggests that there are cases where there have been strong suspicions of criminal activity, including money laundering.

Solicitors can be liable for prosecution if they play any part in money laundering, including in a right to buy purchase. Money laundering is covered under the Proceeds of Crime Act 2002 and solicitors have strict regulations governing their conduct.

More information about money laundering and the responsibilities for solicitors can be found on the [Law Society's website](#).

Taking action

Unlike other types of social housing fraud, once right to buy or right to acquire fraud has happened, it can be difficult to identify retrospectively. However, a number of providers have achieved significant success in taking action in fraudulent right to buy cases.

Learning from others

A right to buy was completed by a tenant of **Bristol City Council** in April 2011. The property was sold at a discount of £30,000 following the tenant's application, in which it was stated that the property was their principal home. However the internal audit team received a referral from the council tax department, as it was apparent several people other than the tenant had appeared as the council tax liable party and on the electoral register since the tenancy start date in 2005.

An investigation was launched and found that:

- at the same time as signing-up for the tenancy in 2005, the tenant had completed an application to purchase a shared ownership property with a Bristol housing association
- council tax and electoral register details suggested evidence of subletting at the council tenancy address
- financial footprint information, land registry records, the electoral register and council tax records suggested that the tenant was resident at the housing association shared ownership property, throughout the period of their tenancy with Bristol City Council.

Bristol City Council wrote to the former tenant stating that there had been no right to buy and that the tenant was required to surrender the lease. Eventually the matter was settled out of court, the property was successfully brought back into council stock and lost rent (for the period since the sale date) and costs of approximately £4500 were recovered.

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As with all types of social housing fraud, preventing it from happening in the first place is far more cost effective than taking action once it's happening. Implementing extra checks at the application stage, means that right to buy and right to acquire fraud can be stopped, resulting in more homes remaining available to people in genuine need.

Right to buy and right to acquire fraud checklist

- Have you acknowledged the risk of fraud in your right to buy or right to acquire policy and procedure?
- Do you carry out enhanced checks of:
 - ID documents
 - Proof of residency
 - Proof of tenancy history
- Do you use data matching with a credit reference agency, or other partners, to verify application information?
- Do you carry out a tenancy audit for every application?
- Do you provide photographs of tenants to property surveyors carrying out valuations?
- Do your property surveyors know what to look for, and how to report their concerns?
- Do you provide appropriate support and advice to tenants, including vulnerable tenants, about the responsibilities of owning a property and the risks associated?

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CIH making best use of home resources page

www.cih.org/mbusresources

CIH Home Ownership Conference

www.cih.org/events/display/vpathDCR/templatedata/cih/events/data/Paddy/Home%2520Ownership%25202014

CIH Right to Buy training programme

www.cih.org/training/display/vpathDCR/templatedata/cih/training/data/Right_to_buy_policy_28_11_2013

DCLG Right to Buy overview

www.gov.uk/right-to-buy-buying-your-council-home/overview

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