

Agenda Item 9

Housing Review Board

14 January 2010

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Tenancy Fraud initiative

Summary

This report sets out some of the concerns about tenancy fraud and how to combat the problem. The government have launched a national drive to crackdown on tenancy misuse and fraud, and this report considers some of the good practice ideas designed to tackle unlawful subletting. The report outlines a series of practical measures we could adopt to detect tenancy fraud in our own housing stock, which will allow us to participate effectively in the national initiative.

Recommendation

To adopt the proposals set out in the report as our policy to combat tenancy misuse and fraud.

a) **Reasons for Recommendation**

To establish a policy and process to tackle any tenancy fraud locally.

b) **Alternative Options**

To ignore the issue or adopt a different approach to the problem.

c) **Risk Considerations**

Tenancy fraud is a risk to our reputation as a social landlord and where it occurs it prevents a household in housing need being housed.

d) **Policy and Budgetary Considerations**

The contents of this report propose a new policy for the prevention and tackling of tenancy fraud with the majority of the proposals being undertaken using existing budgets. The Communities and Local Government department have given us a grant of £10,000 towards the initiative.

e) **Date for Review of Decision**

An annual review is suggested.

1 Background

1.1 Public housing is a valuable asset and there is great demand for this form of subsidised housing. It is unacceptable that some people abuse their tenancy and profit from it by unlawfully sub-letting their property to someone else. The Audit Commission estimate that as many as 50,000 social homes across the country may be occupied fraudulently.

1.2 Over the past few months the Communities and Local Government (CLG) department have been running a campaign to crackdown on tenancy fraud and have recently published a

good practice guide entitled Tackling unlawful subletting and occupancy: Good practice guidance for social landlords.

- 1.3 There has not been a national campaign to tackle tenancy fraud and in truth the extent of the problem is not well known.
- 1.4 The government have been offering a financial incentive for local authorities to participate in the campaign to tackle tenancy fraud. We secured £10,000 towards our efforts to deal with the issue locally. The conditions attached to the grant cover three areas:
- Confirmation of our commitment to work with Registered Social Landlords (RSL's) in the area to identify unlawfully-occupied properties;
 - Agreement to share information on the measures they have put in place, the number of properties recovered and any useful lessons for other authorities and RSL's; and
 - Confirmation of the number of social rented properties in their area (this includes those homes owned by other social landlords).
- 1.5 Tenancy misuse can present itself in various forms and can occur at any stage during a tenancy lifecycle – from obtaining a tenancy by deception, through to failing to notify the landlord when the tenant moves out or passes away. In some instances unlawful subletting can generate lucrative profits for individuals or organised groups. It is therefore essential that all landlords can convincingly demonstrate that the tenants who should be occupying their homes really are in residence. Tenancy misuse does not refer to cases where tenants have taken in a lodger or sublet with their landlords consent, but does include unlawful subletting. The following list is not exhaustive, but does include the main types of tenancy misuse:
- Unlawful subletting, including:
 - Subletting the whole property to a single household, or
 - Multiple sublets within one property.
 - Non – occupation by the tenant as their principal home.
 - Wrongly claimed succession – retention of a tenancy following the death or vacation of the tenant following a previous succession, or of a non-qualifying person.
 - Unauthorised assignment of the tenancy.
 - 'Key selling' – where the tenant leaves the property and passes on the keys in return for a one-off lump sum payment or favour.
 - Fraudulently obtaining a social housing tenancy, including:
 - Misrepresentation of identity, or
 - Misrepresentation of circumstances.
- 1.6 The latest tenancy fraud initiative is linked with the National Fraud Initiative which has been run every two years since 1996 by the Audit Commission. The Audit Commission collects data from the bodies it audits and crosschecks it and alerts partners to any matches that suggest potential fraud. For example, if a council tenant is claiming benefit in two different areas the local authorities are notified of the 'match' and encouraged to investigate.
- 1.7 Many tenancy frauds are reported by the public and in order to increase the number of leads the Communities and Local Government department are making funds available to reward those who provide information that leads to the recovery of a property. The reward is set at £500 and will cover the first 1000 homes recovered through tip-off. A range of promotional material has also been made available which can be customised to promote the tenancy fraud initiative.

2. Good practice and its local application

- 2.1 The recently published good practice guide contains a wide range of practical ideas for combating tenancy fraud many of which have been successfully used by social landlords. The majority of the ideas are applicable to tenancies in our major cities where the problem is most widespread. I have taken the good practice ideas that I feel are most applicable to our situation and described them below.
- 2.2 **Beginning the tenancy** – when a tenancy is allocated as a social landlord we are obliged to ensure that the new tenant is in priority need and will use the property as their principal home. A series of identification and verification checks should be undertaken at this stage to ensure that the applicant and their family/housing circumstances are what they say they are and our staff insist on photo identification and birth certificates at the ‘sign up’ interview. Proof of current address and other family members is also sought prior to the tenancy being granted.
- 2.3 Where a property has been obtained by deception and false statement the tenant can be prosecuted within the first six months of the tenancy. Our improved ‘sign up’ process tries to ensure that we are allocating the right people to the right home. Staff involved in the process will be reminded of the potential for tenancy fraud and the importance of the ‘sign up’ process for preventing tenancies being obtained by deception.
- 2.4 **Use of photographs** – taking photographs of tenants (and potentially other household members) is an increasingly common practice. Using photographs has been found to discourage tenancy misuse and unlawful subletting, increase the likelihood of detection through recognition, and support the completion of tenancy audits. Sophisticated I.T. solutions now allow for photographs to be pasted onto tenancy agreements and other documentation. This would be useful in any tenancy audit.
- 2.5 I propose introducing photographs at our new tenancy ‘sign up’ process so we have a photographic record of the tenant(s) on file as part of our Introductory Tenancy regime. I will also explore how we might electronically paste photographs onto the tenancy agreement and record the details on our housing software system.
- 2.6 **Settling in visits** – these are usually undertaken within a few weeks of a new tenant moving in. Our tenancy sustainment work limited these visits to vulnerable tenants and our Systems Thinking Redesign introduced a telephone contact for non vulnerable tenants within six weeks of the tenancy commencing. Now we have Introductory Tenancies it is good practice to have a further visit just prior to the anniversary of the tenancy and these visits provide an opportunity to validate that the legal tenant is in occupation.
- 2.7 Good practice for us would be to undertake a settling in visit for all non sheltered housing (Mobile Support Officers regularly visit sheltered housing residents) within six weeks of the tenancy commencing. The visit should be unannounced, ensure that the tenant has moved in and is his/her main residence, and provide evidence that all household members are in occupation, particularly all children detailed on the housing application. This would have a resource implication for us and I will be investigating how we might best achieve this.
- 2.8 **Responding to reports from tenants** – we must be able to demonstrate that all reported incidents of tenancy fraud are taken seriously and investigated. Good practice suggests that all staff and tenants should have easy access to clear advice on:
- How to report suspected incidents of tenancy abuse and unlawful subletting, including on-line and telephone reporting methods;
 - The investigation stages involved;
 - A named contact with responsibility for undertaking investigations;

- The type of evidence required to be successful;
 - Whether (and if so, how and when) the person reporting an incident can expect to be informed of the outcome.
- 2.9 Some authorities have set up telephone hotlines for reporting suspicions of tenancy fraud. I am proposing that our Estate Management Section take the lead for the Service and is the Service point of contact for reports. They make this work a priority working within our existing procedures. It is vital that we establish an organisational culture that encourages staff to be proactive in this area, have a high level of awareness of the impact of tenancy misuse, and have the confidence to investigate cases reported.
- 2.10 **Tenancy audits** – The guidance recognises the resource intensive tenancy audit process and refers to auditing a percentage of the stock each year on a rolling basis or adopting a risk based approach to conducting tenancy audits, targeting visits in a manner that is proportionate, reflects local circumstances and prioritises high risk tenancies. Some landlords have a dedicated counter-fraud team whilst others enlist the support of housing management, housing needs and technical staff to undertake tenancy audits. Each landlords approach will be reflective of organisational capacity, resources and priorities.
- 2.11 A checklist for targeting tenancy audits to ‘high risk’ tenancies might include tenancies where:
- There has been no contact with the tenant for the past six months;
 - Properties where there is no access for gas servicing;
 - Where no repairs have been reported in the previous twelve months;
 - Accounts where rent is always paid:
 - Several months in advance or where there is a significant credit on the rent account;
 - In cash;
 - Where the name on the bank standing order or direct debit does not match with that of the tenant.
 - Tenancies where consent to sublet was previously refused, or period for which consent was granted has expired.
- 2.12 When conducting tenancy audits good practice suggests a checklist approach should be adopted and we are advised that:
- Where possible, programmed visits should take place during spring/summer months with lighter evenings as this increases the likelihood of tenants opening their doors and reduces health and safety risks for visiting officers.
 - Staff conducting visits should wear ID badges.
 - A risk-based approach should be taken to visiting properties in pairs.
 - The date and time of visits should be kept confidential to avoid residents becoming aware of planned visits.
 - A standard tenancy audit pro-forma with scripted questions should be used for all visits.
 - Where a landlord holds photographs of tenants on housing records, a copy of them should be provided to the visiting officer.
 - If the tenant is not present at the time of the tenancy audit, the pro-forma should include a set of standard questions to be asked of whoever is present at the time. Information gathered at this stage may help to inform any future investigation.
 - The tenancy audit form should be signed and dated on completion by the tenant, or where the tenant was absent, the person providing the information, and countersigned by the visiting officer.

- Three unannounced visits should be conducted at different times before requesting the tenant contact the office.
 - Where visits are made outside office hours a senior staff member should be accessible on one of the landlord's telephone numbers to reassure tenants with concerns about bogus callers. This number should be visible on the visit proforma.
 - Failed calls should not be 'carded' until three attempts to catch the tenant at home have been made.
 - Tenancy visits can be used to capture photographs of tenants who have held the tenancy prior to the introduction of photographs at 'sign up'.
 - Informal checks with next-door neighbours can provide helpful information about who is living in the property and the best time to call.
 - Where the visiting officer is unable to catch the tenant at home following three unsuccessful visits the case should be referred for further investigation.
- 2.13 The primary purpose of a tenancy audit is to validate the identity and occupancy of the property. Visiting officers should obtain the names and date of birth of the tenant and all household members including relatives living at the property and lodgers, and confirm these with the details on file. We should establish that the legal tenant is present at the time of the visit. Documents to validate identity include full driving licence; passport; credit card with supporting bank statement; Child benefit book; Pension book showing name and address; travel pass. Documents that can be used to prove residency (but not identity) include household utility bills; TV licence; car registration documents; correspondence from government departments.
- 2.14 **Publicity campaign** – almost half of all incidents of unlawful subletting originates from information received from a member of the public. We need to raise awareness that we are a landlord that cares about tenancy fraud and will act where appropriate. We can employ a range of activities to highlight this including:
- Awareness raising campaigns in partnership with other social landlords;
 - Residents newsletters (Housing Standard/Partnership News);
 - Our website;
 - Targeted mailshots;
 - Notices and posters in housing offices and community centres;
 - Tenant Handbook;
 - Use existing communication mechanisms such as rent statements and repair receipts/satisfaction surveys;
 - Liaison with tenant groups;
 - Work with the local press and other media.
- 2.15 I am also proposing that we use the templates and posters produced by CLG and encourage members of the public to report suspected tenancy fraud.
- 2.16 **RSL liaison** – part of our commitment is to work with other social housing providers on this initiative is to obtain RSL commitment to tackling tenancy fraud, share information and monitor the number of properties recovered. We can do this through our partnership working arrangements including the Wider Housing Strategic Partnership.
- 2.17 We have been working with Internal Audit on identifying fraud risks and measures to mitigate fraud occurring. We are following Audit Commission advice in 'Protecting the Public Purse' and using a checklist to ensure that our counter-fraud measures are up to date and effective. We have captured a number of areas where we can tighten our procedures to prevent fraud and detect it when it does occur.

- 2.18 Internal Audit's "Fraud-line" can be used in our endeavours to tackle tenancy fraud, this way the Council maintains clarity over which number members of the public should dial. We publish this number widely, and Housing Benefit also uses the "Fraud line". The telephone number is 01395 517494.
- 2.19 The way this works is that a caller rings in (either anonymously or not), and gives details on the answer phone, Internal Audit often ring back to clarify if the caller leaves a number. Using this "Fraud line" in Internal Audit means we have an independent section of the Council taking the initial call, (and keeping a note of it), Internal Audit then pass the case over to the correct department to deal with it, but will be able to follow it up in due course.

3. Moving forward

- 3.1 I have no evidence to suggest that tenancy fraud is a big problem in East Devon, but in fairness I do not know for certain that it is not a problem. For some time we have wanted to implement a system of annual visits to tenant's homes, but resource constraints have prevented this from happening. A more targeted approach with an emphasis on confirming the right tenant is in the right home would be achievable within our existing resources.
- 3.2 For us to make meaningful progress on this matter using our existing capacity I am proposing that we introduce the actions set out in section 2 of this report. We have a small budget for this work and many staff who routinely undertake home visits.
- 3.3 We need to monitor the effectiveness of our approach and how our RSL partners are performing. I have to report to the CLG and will report back to the Board on progress once we have implemented the measures proposed.

Legal Implications

There are no legal implications requiring comment.

Financial Implications

The financial implications are included in the report.

Consultation on Reports to the Executive

None.

Background Papers

- Tackling unlawful subletting and occupancy: Good practice guidance for social landlords, CLG, November 2009.
- Protecting the Public Purse, Audit Commission.

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