

READING BOROUGH COUNCIL

REPORT BY INTERIM DIRECTOR OF HOUSING and COMMUNITY CARE

TO:	COMMUNITY CARE, HOUSING & HEALTH SCRUTINY PANEL		
DATE:	7 <sup>th</sup> DECEMBER 2010	AGENDA ITEM:	11
TITLE:	HOUSING TENANCY FRAUD		
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1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 The Annual Fraud Report presented at CCEA Scrutiny in March 2010 summarised the actions taken by RBC Officers as part of the Council's Anti-fraud and Corruption policy. The Report identified the need for greater targeting of resources to proactively target fraud and improved cooperation between various sections within RBC who have investigatory functions that may involve fraud or theft prevention as part of their remit.

One of the areas identified for further investigation was Housing Tenancy Fraud. The purpose of this report is to update on progress in dealing with this and set out further action the Housing service propose to take to tackle tenancy fraud.

2. RECOMMENDED ACTION

- 2.1 That CCHH note progress so far and planned action for dealing with Housing Tenancy Fraud.

### 3. POLICY CONTEXT

The Anti-fraud and Corruption strategy was agreed by the Council in 2008-09. A strong Anti-fraud strategy is seen as an important part of evidence that an authority has good corporate governance and is focused on achieving more efficient service delivery.

### 4. THE REPORT

#### 4.1 BACKGROUND:

Housing Tenancy Fraud is the use of social housing by someone not entitled to occupy that home. It includes:

- The unauthorised sub-letting of a property for profit to individuals not allowed to live there by the conditions of the tenancy
- Submitting false information in a Housing application to gain a tenancy and
- Wrongful tenancy succession where the property is no longer occupied by the tenant

The Audit Commission report "Protecting the Public Purse (PPP) 2010" noted that in 2009/10 nearly 1,600 properties (across 60 Councils) were recovered from unlawful tenants.

The PPP reports recognise that the opportunity for unlawful subletting is greatest in metropolitan areas but they estimate that the potential for fraud in others parts of the country could be around 1%. For Reading's housing stock this would be around 70 tenancies.

Where there is a lack of social housing for homeless families, councils must house them in temporary accommodation or private accommodation. The cost of doing this can be around £11k per year per household. The *potential* value of returning illegally occupied properties for re-letting is therefore considerable.

#### 4.2 PROGRESS IN DEALING WITH HOUSING TENANCY FRAUD

##### Housing Tenancy Fraud Panel

In April 2010 the Housing Fraud Panel was set up to proactively manage cases of Tenancy fraud. The teams involved (Rents, Neighbourhood Services, Housing Needs, Corporate Investigations team and Legal Services) have been working closely to identify potential fraud cases, share information and plan and agree action on individual cases.

This approach ensures a more joined-up and efficient process for tackling individual cases and thereby results in a reduced risk of duplicate or conflicting action.

The group also has a wider remit to look at and share ideas around good practice on tackling fraud.

As a result of this closer working the team have had reason to look at 21 cases of possible illegal subletting or non residency of RBC properties. Of the 21 cases referred for further investigation a total of 5 (24%) properties have been returned to RBC ownership to re-let. If we were to take this at face value, looking to re-let to families in temporary accommodation, approximately £55k could have been saved to date.

#### Increasing awareness and knowledge of Tenancy Fraud

In November 2010 Housing services commissioned HQN to develop and deliver an in-house training session on dealing with Illegal Sub-letting training. This training was well attended by Neighbourhood Officers, Rents staff, Corporate Investigations team members, Housing Support Officers and Legal Services representatives.

The event provided the opportunity for teams to understand each other priorities and constraints and provided a forum for discussing good practice and correct legal procedure.

#### Tenant Census

This was a major project undertaken in Housing and phased throughout 2010 looking at systematically gathering information to improve the known profile of RBC tenants. This initiative will help ensure that our systems (including the new IT system OHMS) have an up to date and comprehensive record regarding the occupancy of Council tenancies. The more accurate tenant profile can be used to verify occupancy details as part of future contact including routine visits.

#### Work with other Housing providers

The Berkshire Housing Management Working Group provides a forum for Housing providers (including RBC, Wokingham and a number of RSLs) to share good practice and processes and determine a consistent approach toward housing management functions.

Action by members on fraud initiatives have been part of recent agenda and procedure and paperwork around tenancy audits has been shared.

This approach is in line with PPP recommendation to work with other housing providers to develop joint incentives/approaches to tackle housing tenancy fraud.

### **4.3 FURTHER ACTION PROPOSED**

#### Improving Tenancy Audits

Neighbourhood Officers routinely visit tenants at 3 weeks, 3 and 8 months and on an ad-hoc basis on request and as part of courtesy visit process.

The rationale and outcomes required for these visits will be reviewed to ensure that a strong enough emphasis on fraud detection is built into the visit

process. The good practice adopted by other housing providers for checking occupancy (for example standard inspection forms and checklists) will be taken into account as part of this review.

At the moment, the majority of our visits are by appointment and one of the proposals is to increase activity around unplanned visits by Neighbourhood Officers, especially where fraudulent and sub-letting activity is suspected. In order to create the capacity to do this we will be looking at a reduction in courtesy visits.

#### Using Photo -identification of tenants

Housing staff currently ask for documents to prove identity, residence and immigration status before an offer of accommodation can go ahead.

Using photo-identification of tenants at application and sign-up of tenancy is a further anti-fraud measure already adopted by a number of housing providers including our PFI partner Affinity.

As with tenant census information, photo ID can be used during tenancy to verify occupancy to ensure that the person claiming to be the tenant is actually, the tenant.

We propose, from the 1<sup>st</sup> April 2011 and following discussions with JCC, that we request photo identification at application for housing stage and at sign up of tenancy.

#### Increasing Awareness and publicity around Tenancy fraud

Encouraging whistleblowing by tenants and increasing the awareness of fraud is something that has been used to good effect by a number of Housing landlords. We intend to ensure the proactive use of Housing News, local newsletters, Tenant Advice Notes and the web in order to:

- Clarify tenants' responsibilities around sub-letting
- Increase awareness of Tenancy Fraud and its negative impact
- Advise the public on the process for raising their concerns
- Publicise where we have taken action to recover properties and the advantages of recovery

This approach will be given greater emphasis during 2011. Housing intends to work with the Housing Fraud Panel and the tenant led Neighbourhood Management Working Group to progress this.

#### Investigating the use of civil proceedings to recover unlawful profits

Fraudsters can sometimes gain significant extra income from unlawful tenancies. Other housing providers have been successful in tackling the issue of unlawful profit from tenancy frauds. Publicity regarding the successful recovery of such profits can also act as a deterrent to potential fraudsters.

Although rarely used, civil recovery can target unlawful profits or used to take action against individuals who have been given accommodation by false information. Although it may not be appropriate in all cases this is a "tool" that we do intend to use in future.

## 5. CONTRIBUTION TO STRATEGIC AIMS

5.1 Contribute to the Council's strategic aims by improving the way we work to:

- Deliver services efficiently and help reduce losses due to fraud and corruption to a minimum.
- To increase fraud awareness across the Council and with residents and tenants. A greater awareness of fraud combined with a more proactive management will act as a deterrent and increase the likelihood that abuses will be reported.
- Preventing and tackling fraud can help ensure that public services for the most vulnerable are protected. Housing, as a scarce resource, must be allocated to and occupied by those individuals that we have an obligation to re-house or are legally entitled to occupy.

## 6. COMMUNITY ENGAGEMENT AND INFORMATION

6.1 During 2011 intention for Housing staff to work with the Neighbourhood Management Group to develop, agree and implement effective processes for dealing with Tenancy Fraud.

6.2 To deliver more focused publicity campaigns and information available for tenants to advise them of progress and responsibilities in tackling Tenancy Fraud.

## 7. LEGAL IMPLICATIONS

There are several statutory provisions which assist in ensuring that housing resources are correctly used, and which may provide the basis for legal proceedings to prevent or limit housing tenancy fraud. Those provisions are as follows:-

- s81 Housing Act 1985 (as amended): the tenant must occupy the property as his/her only or principal home in order for a secure tenancy to exist
- s93(2) Housing Act 1985 (as amended): if the tenant sub-lets whole of property, the tenancy ceases to be a secure tenancy and cannot subsequently become a secure tenancy, i.e. there is a strict prohibition on sub-letting
- ground 5, schedule 2, Housing Act 1985 (as amended) provides a ground for possession where the tenancy was granted on the basis of a false statement made by the applicant
- s171 and s214 Housing Act 1996 (as amended): s171 applies to the housing register, and s214 applies to homelessness. Both sections make it a criminal offence to provide false statements, withhold information or (in the case of s214) fail to disclose change of circumstances in connection with housing/homelessness applications
- Section 2 of the Local Government Act 2000 (the '2000 Act') allows principal local authorities in England and Wales to do anything they consider likely to promote the economic, social and environmental well-

being of their area unless explicitly prohibited elsewhere in legislation. This is known as the 'well-being power', and could be used by housing authorities to manage their housing stock properly and effectively.

The rights of tenants and housing applicants under the Data Protection Act 1998 and the Human Rights Act 1998 will be fully considered in relation to any proposed action set out in this report that the Council might take.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 Dealing more effectively with Housing Tenancy Fraud can deliver better value for money by ensuring that those in genuine need are re-housed whilst reducing the cost of putting the homeless into temporary accommodation.

## **9. BACKGROUND PAPERS**

- 9.1 Protecting the Public Purse October 2010 Audit Commission Report