

**To:** Audit and Governance

**Date:** 26<sup>th</sup> June 2014

**Item No:**

**Title of Report:** Tenancy Fraud Amnesty

## **Summary and Recommendations**

**Purpose of report:** To report to members on the proposed implementation of a tenancy fraud amnesty campaign which is subject to the City Executive Board's approval.

**Key decision -** Yes

**Executive lead member:** Councillor Scott Seamons, Councillor Ed Turner

**Policy Framework:** Housing

**Recommendation(s):** Members are asked to note the report and make recommendations to the City Executive Board as appropriate.

## **Appendices to report –**

Appendix 1 – Risk Assessment

Protecting the Public Purse 2009 – Audit Commission publication

<http://archive.audit-commission.gov.uk/auditcommission/SiteCollectionDocuments/AuditCommissionReports/NationalStudies/20090915protectingpublicpurserep.pdf>

## **Introduction**

1. In 2009 the Audit Commission identified significant areas at risk of fraud within Local Government that needed to be addressed at a local level. One of those areas was housing tenancy fraud.
2. In the Commission's publication "Protecting the Public Purse 2009" they estimated that 50,000 social housing properties across England were

potentially being abused by fraudsters. They further estimated the cost to local authorities, for each property sub-let, to be approximately £18,000:the equivalent of keeping a family in temporary accommodation for one year.

3. At the time; housing tenancy fraud was considered to be just a problem within London.However, the Council's Investigation Team had at that time already identified some housing tenancy fraud during their investigations into housing benefit claims. The information was shared with the Housing Department who took the appropriate action to recover the properties.
4. In 2009 the Department for Communities and Local Government (DCLG)announced that funding would be available to Council's across England in order to tackle tenancy fraud. Oxford City Council successfully bid for and received £10,000.This funding was matched with an equivalent amount from the Housing Revenue Account and a Tenancy Investigation Officer was employed on a 6 month contract.
5. During the 6 month period 6 properties were recovered,effectively showing that housing tenancy fraud was not just a London problem.
6. Further funding was made available by the DCLG in subsequent years and to date the Council has received £360,000 towards combatting housing tenancy fraud. The Council in recognition of the importance of this work also made more funding available from the Housing Revenue Account (HRA) from 2013/14 onwards
7. There are now 4 officers (2 permanent and 2 temporary) employed solely for the purpose of investigating social housing tenancy fraud. To date they have been involved in the recovery of 50 social housing properties.
8. These officers also currently provide advice and assistance to other Registered Providers of social housing in Oxford and have worked closely with them in the recovery of 13 of their properties.
9. Given the high cost of private sector rents in Oxford,sub-lettingsocial housing whilst fraudulent is seen by some as a potentially lucrative opportunity.Hence the Council's housing stock is at risk.
10. One of the suggestions made by the Audit Commission in 2009 to combat housing tenancy fraud was the use of public campaigns. They not only raise awareness of the issue but also encourage residents to report suspected illegal activity.
11. Awareness of housing tenancy fraud has previously been raised to tenants by way of articles in the 'Tenants in Touch' publication.
12. In October 2013 the Prevention of Social Housing Fraud Act 2013 (PoSHF Act) was enacted and made the sub-letting of any social housing property a criminal offence. The Act also introduced the profit order. This

means that a council can apply to the court and request that any profits the tenant has made from the illegal sub-letting of the property are paid to the council. This is in addition to any damages that the council may request.

13. The aim of the tenancy fraud amnesty is to raise awareness with the public, not just our tenants, and to encourage the reporting of illegal activity. It is also to:
  - encourage those misusing their Council properties to surrender their tenancies without the Council having to take expensive legal proceedings to gain possession of the property. It currently costs in the region of £2,000 to take an uncontested possession case through the civil court.
  - make the public aware that sub-letting of Social Housing is now a criminal offence and therefore act as a deterrent to those considering sub-letting.
  - show that the Council is taking all possible steps to tackle the problem of the lack of affordable housing in Oxford.
  - reduce anti-social behaviour and illegal activity which often increases when a property is sub-let.
14. The Audit Commission has recently produced figures which suggest that 2% of housing stock outside of London is likely to be sub-let. This would equate to approximately 140 council homes in the Oxford area.
15. The Tenancy Investigation Team believes they are only scratching the surface of a problem and have identified patterns and trends in different areas of the city
16. Some of the cases of sub-letting have included:
  - Tenants moving abroad
  - Tenants moving into another area
  - Tenants passing on properties to their children effectively allowing them to jump the waiting list.
  - Tenants not using their property as their main place of residence
  - Tenants renting out their properties on a short term let basis to tourists who come to visit Oxford.
17. Prior to October 2013 no criminal action was taken against social housing tenants unless proceedings were being taken under the Fraud Act 2006. However, the exchange of money between the tenant and the sub-lettee was extremely difficult to prove and the tenant could simply hand back their keys if the sub-letting was discovered and keep any profit they had made from their unlawful activity.
18. The PoSHF Act 2013 provides investigation officers with the power to acquire information from certain financial institutions, utility and telecommunication companies. The statutory instrument for this was introduced in April 2014.

## **An Amnesty**

19. It is considered that a 2 month amnesty period would enable a campaign to have the greatest impact and reach the maximum number of people across different sections and areas of the city. The date of the amnesty is yet to be confirmed and is subject to CEB approval.
20. The PoSHF Act is a relatively new piece of legislation and some tenants may be unaware that what they are doing is now illegal and could result in them having criminal action being taken against them.
21. The amnesty will allow any tenants who are now illegally sub-letting to voluntarily surrender their tenancy during a specified 2 month period without the Council taking expensive criminal action against them at a cost to the local taxpayer.
22. Once the amnesty has ended any allegations of sub-letting reported by the public will be fully investigated with a view to prosecuting the tenant and taking criminal proceedings against the tenant and civil action to recover the property.
23. The amnesty will be fully publicised. This will include a poster campaign and adverts in local press and community news letters. Posters will be placed in public areas and at bus stops in and around Oxford, Kidlington and Abingdon. Members will receive a briefing note prior to implementation setting out the purpose of the amnesty, the timeframe and reporting arrangements. The Team will also report on the outcome and more generally on their work later in the year at one of the regular member briefing sessions.
24. A dedicated "hot line" will be made available to those wishing to surrender their tenancies and for others to provide information about any further properties they believe are being illegally sub-let.
25. Many local authorities in England have implemented one or two month long amnesties and have recovered properties as a result. These include;
  - Barnet Council (stock 11,000) 14 properties recovered, including 2 for a local Housing Association. The saving to their temporary accommodation costs was said to be £250,000
  - Croydon Council (14,000) had an amnesty in November to January 2014 and it resulted in keys to 3 properties being returned and further reports of fraud being made. Investigations are on-going into these allegations.
  - Newham Council (17,000) recovered 26 properties as a result of their amnesty which ran from October to January 2014.

- Stoke City Council (19,000) created the successful “Know a cheat in your street” campaign in 2012. The campaign was initially targeted at tenancy fraud but has since been used to highlight other areas of fraud within the Council. The reuse of the “know a cheat in your street” has kept tenancy fraud in the media spotlight. Over a 2 year period they have recovered 116 properties and made significant savings in different areas around the Council.

### **Environmental Impact**

26. It is considered that there will not be any environmental impact as a result of the campaign.

### **Equalities Impact**

27. Consideration has been given to the public sector equality duty imposed by s149 of the Equality Act 2010. Having due regard to the need to meet the objectives of that duty, this being to eliminate discrimination, victimisation and promote equal opportunities the view is taken that the duty is met.

### **Financial Implications**

28. The cost of the media and poster campaign will be approximately £10,000 and funded from the Housing Revenue Account.

29. Local Registered Providers are being approached to see if they want to join in with the campaign and contribute towards the cost of it. Should they agree this will add greater weight to the campaign and offset costs, in exchange for the Council passing on information received regarding their properties

### **Legal Implications**

30. The Council will allow tenants to surrender their tenancy immediately rather than have to give the normal 4 week notice period.

31. Section 9.6 of the current tenancy agreement allows that in special circumstances the Council is able to end the tenancy quicker.

32. There is no requirement for consultation on this temporary departure from policy.

33. Legal action may be required to evict any illegal occupants once the tenant has surrendered their tenancy.

### **Risk Assessment**

34. A risk assessment has been undertaken. No significant risks were identified.

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Tenancy Fraud Amnesty Risk Assessment

<i><b>What are the risks?</b></i>	<b>Consequence</b>	<b>Risk Owner</b>	<b>Action Owner</b>	<b>Mitigation Action</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall Risk</b>
<i><b>Increase in the number of council owned homes being sub-let</b></i>	Increase in the number of homes sub-let. Potential increase to temporary accommodation costs. Reputational risk to the council in that the public feel the council are not dealing with all local housing issues.	Oxford City Council	Catherine Jones/ Carol Quainton	Tenancy fraud amnesty media campaign to highlight the problem and show the council is dealing with the issue. Tenancy Investigation Team currently looking into allegations at the present time.	5	3	15

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