

The housing scam that is anything but social

The Audit Commission has estimated that there are at least 50,000 unlawfully occupied social homes in England. This official figure is likely to be conservative, as other estimates suggest that the extent of the fraud is much higher, with Experian putting the figure at around 160,000 homes.

The problem

Social housing fraud can take a number of different guises, including unlawful subletting, succession fraud and the use of false information on an application in order to gain a tenancy. There is a higher incidence of housing fraud in London compared to the rest of the UK. This is thought to be a result of the higher difference between social rent and market rent in the capital. Some landlords in London have uncovered cases of social housing tenants making in excess of £10,000 a year through unlawful subletting.

An example of how common the practice has become is the case of Shelina Akhtar, a councillor in the London borough of Tower Hamlets, who recently admitted unlawfully subletting her housing association property. Ms Akhtar paid a subsidised rent of £400 a month whilst living in private accommodation elsewhere, whilst charging her tenant £1000 a month. Ms Akhtar was convicted of failing to notify a change of circumstances and sentenced to 16 months imprisonment. A more extreme example is that of Mary Christine Obanokho, who was convicted for under the Forgery and Counterfeiting Act 1981 after purchasing a fake British passport to illegally remain in the UK and to obtain social housing in 1996. Ms Obanokho's deception remained undetected for over 15 years.

The Audit Commission's consultation paper also states that many landlords have reported uncovering other types of fraud when they uncover housing fraud. These have included housing benefit and council tax single person discount fraud, as well as visa overstays and connections to serious organised crime.

The clampdown

In January 2012, the Department for Communities and Local Government published plans to clampdown on social housing tenants unlawfully subletting their homes in a bid to free up properties for the many families on the waiting list. Ms Akhtar's case, which involved prosecution for benefit fraud, is rare because at the moment, housing fraud is primarily considered to be a civil matter. A social landlord can apply to Court for a possession order to recover the property and, if successful, it will also recover the majority of its legal costs and potentially some damages. This process is time consuming and the landlord may have to resort to enforcement proceedings in order to recover any costs orders made if the tenant does not pay. Because of investigations needed to uncover fraud, and the process of recovering the property, only around 1,800 fraudulently sublet council houses were recovered last year. Meanwhile, there are approximately 1.8 million households on the waiting list for social housing.

Under the Government's new proposals, unlawful subletting, key selling and succession fraud could carry criminal sanctions, with tenants facing up to two years in prison and a £50,000 fine if the case goes to the Crown Court. The new prosecution powers would only extend to local authorities, which already have the power to bring criminal prosecutions for benefit fraud. The proposal does not extend to giving housing associations the same prosecution powers, although it remains open to them to bring private prosecutions in respect of criminal offences.

If the proposals go ahead, local authorities would also be able to get improved access to information from banks, building societies and utility companies in order to help identify tenancy fraud. Again, this right would not be afforded to housing associations as a result of their status as private organisations.

Toyosi Ajimoko, a member of Cobbetts' Fraud & Risk Services team comments "*When one considers the historic barriers for information sharing between Government departments and*



private organisations, commonly referred to as 'legal gateways', the progress on information sharing initiatives will be vital to aid reduction of this type of fraud".

The cost

Housing fraud is not a victimless crime. A small minority are profiting at the expense of those in genuine need of housing, and the cost is ultimately borne by the taxpayer. The National Fraud Authority has estimated that housing fraud costs the UK around £900m a year. If the cost of replacing those homes that are unlawfully occupied was taken into account, then this sum would be significantly higher.

Although carrying out investigations and taking legal action to recover unlawfully occupied homes may seem costly and time consuming, it is clear that the cost of doing nothing is much higher.

Social landlords are increasingly taking steps to tackle the serious issue of fraud within their housing stock. Cobbetts' Fraud & Risk Services team understands the particular characteristics involved in carrying out such investigations and taking legal action to recover social housing.

If you would like to discuss fraudulent activity relating to social housing within your stock, Cobbetts has specific expertise in advising in this area. For expert advice to help protect you from fraud, contact arun.chauhan@cobbetts.com or mark.kenkre@cobbetts.com.