

Some Top Tips for Tenancy Fraud Cases

Six years ago, the National Fraud Authority launched its Social Housing Tenancy Fraud Project that aimed to encourage Local Authorities and Registered Providers to tackle tenancy fraud more aggressively. In October 2013, the Prevention of Social Housing Fraud Act came into force and saw tenancy fraud become an express criminal offence. Today, demand for social housing continues to outstrip supply. Peter Jolley asks what else can be done to win the fight against tenancy fraud.



Peter Jolley

One: Prevention is Better Than Cure

Stopping fraud in the first place is likely to be much more cost-effective in the long term. As social housing landlords will know, it can be a very difficult and expensive process to regain possession or take other legal action against an employee or supplier tied up in a fraud. Fraud in any event extends beyond financial loss: it can undermine an organisation's reputation and that organisation's ability to maintain homes and build new properties.

Two: Use the Internet

The Internet is an essential tool when it comes to prevention. Tenants regularly publish astonishing amounts of personal information on the web. Use online passport checking services when establishing identity. If a prospective tenant cannot provide utility statements, ask them to print them from online. If you later suspect fraud, then look at sites such as Facebook and Gumtree. Set up anonymous accounts to do so. If a tenant has a 'locked down' profile, look at their

friends' profiles instead. You may find some helpful posts concerning the tenant's true whereabouts and accompanying photographs can prove excellent evidence.

Three: Tenancy Agreements

Before you let a tenant into a property, tighten up your tenancy agreements. Remember that the more serious offence under the Prevention of Social Housing Fraud Act 2013 (which may go to the Crown Court) requires a tenant to act dishonestly, in breach of tenancy, when subletting without consent and ceasing to occupy the property as their only or principle home. Use the words from the Act, including 'dishonestly', when drafting clauses. Include a statement that a tenant may lose their home if they make misrepresentations. Require contact details if a tenant is away for more than 28 days. Include a clause that the tenant is representing that they are living at the property every time they pay rent.

Four: Audits are Not Enough

Tenancy audits will often not be sufficient to tackle fraud. It is hardly difficult for a fraudulent tenant to arrange to be at a property if an inspection is announced in advance. Procedures that include unannounced tenancy checks may involve more resources should a legitimate tenant not be at home on a first visit, but persistent absence may provide essential evidence when trying to regain possession.

Five: Ask the Neighbours

Neighbours may understandably be reluctant to assist in fraud investigations. Consider providing systems such as dedicated phone lines or web reporting pages for those who are concerned. Reassure people that it is entirely legitimate to raise concerns in this way. Promote these systems in your regular engagements with your tenants. This may in itself cause potential fraudsters to think again.

Six: Show Your Hand

Most tenants will surrender their tenancy at the point of detection or when they receive notice that a claim has been issued. This is more likely to happen if you have a strong, well put together pack of evidence. Screenshots from a tenant's own social media accounts can be particularly effective in this respect. Spending more time on investigation may therefore save costs in the long run. If you do intend to issue, serve a Notice of Seeking Possession with all grounds covered but without prejudice to a separate Notice to Quit (served on the basis that a tenant's security has been lost).

Seven: Lost Income

Unlawful Profit Orders under the 2013 Act may be made retrospectively in civil courts. Online sites such as Gumtree may help when calculating average rents. Also bear in mind that the Proceeds of Crime Act 2002 may be relevant when it comes to recovering money in more serious cases.

Eight: Share Best Practice

Share lessons learnt with other Councils and Housing Associations. Consider joining relevant networks. Remember that employees can also be involved in fraud and information sharing can help detect such instances.

This practice note has been written by Peter Jolley, a tenant at 42 Bedford Row who regularly undertakes landlord and tenant work including the wide range of issues which relate to social housing.