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## Report of the Strategic Landlord

### Corporate Governance and Audit Committee

**Date:** 29 July 2010

**Subject:** Fraudulent Tenancies

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**Electoral Wards Affected:**

All

N/A

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## Executive Summary

This report provides Corporate Governance and Audit Committee with details of the different forms that tenancy fraud can take, the measures already in place to tackle them, and the new actions which are currently being made across the city.

Following the report to Corporate Governance and Audit Committee in April 2010, the Council has implemented a number of the measures outlined in that report to combat unlawful subletting, in addition to the measures which were already in place. These have included increasing publicity and raising awareness; making out of hours visits to tenants, and developing partnerships with registered social landlords (housing associations).

There are a number of ways in which tenancies can be obtained fraudulently, other than through subletting. These include claiming succession where there is no entitlement to do so, failure of a tenant to occupy the property as their only or principal home, or people who are ineligible for council housing obtaining a property through deception. The Council has a number of measure in place to prevent these from occurring; enforcement tools including the tenancy agreement; and guidance on the practical steps which can be taken to deal with them.

## **1. Purpose Of This Report**

The purpose of the report is to provide Corporate Governance and Audit Committee with an outline of the types of irregularities to identify where tenancy fraud may be occurring and the information trigger points within the Council.

## **2 Background Information**

2.1 In April 2010, Corporate Governance and Audit Committee received a report outlining the new government initiative to tackle fraudulent tenancies, and the policy development and performance management being done by Strategic Landlord group as a result of this initiative. Following the meeting, a further report was requested to give more information on the different types of social housing fraud.

2.2 In November 2009, a Good Practice Guide for social landlords on tackling unlawful subletting and occupancy was published by the Government. The Guide identifies three main types of social housing fraud. These are:

- People who are ineligible for council housing by law obtaining a Council property through deception. This would mean a person who was not entitled to council housing on immigration grounds using forged documents, such as a passport, to obtain a tenancy.
- Tenancy Management Fraud
- Unlawful Subletting

2.3 A grant of £50,000 was allocated by CLG to the Council as part of the initiative. This funding is being used to tackle unlawful subletting. A number of actions and ways of spending the funding were identified in the previous report to Corporate Governance and Audit Committee, and these actions are now under way. They include publicity campaigns, telephone hotlines for reporting, tenancy sweeps in tower blocks, and partnership working with registered social landlords (housing associations). Point 3.2.5 below gives detail of the work which has been done and the work which is being planned.

The results of all the work being done are being carefully monitored, and will influence where further funding will be allocated as the initiative progresses.

The Good Practice Guide also identifies a number of possible cases of tenancy management fraud in addition to unlawful subletting. They include:

- Non occupation of the property by the tenant as their only or principal home
- Wrongly claimed succession following the death of a tenant
- Unauthorised assignment of a tenancy to another person

There are a number of different scenarios which may give rise to tenancy management fraud.

## **3 Main Issues**

3.1 Tenancy management fraud can take a number of forms. Whilst in most cases this is likely to be conscious fraud, there may be instances where a person unconsciously obtains a tenancy fraudulently, believing that they are acting within their rights. For instance, a person may believe that they are entitled to claim succession to a tenancy when they do not legally have that right, as they have not sought advice from the council or any other legal advisor.

3.2 Listed below is a number of examples of the different types of tenancy management fraud, the enforcement measures in place, and the actions which can be taken.

3.2.1 Failure of the tenant to occupy the property as their only or principal home

*Example 1* A tenant moves away and leaves a friend or a relative living in the property

Enforcement: By law, a tenant must use their property as their only or principal home. This is set down in the tenancy agreement.

Practical Steps: Following the Executive Board report of May 2010, Strategic Landlord are currently working in partnership with ALMOs on making regular tenancy visits to all tenants, ideally annually.

*Example 2* A tenant leaves the property to live elsewhere, but keeps the tenancy as 'insurance' in case they want to return in the future. This could include people who move out to live with a partner, or people who spend time abroad for some or most of the year.

Enforcement: A tenant must not leave a property empty for more than 28 days without informing the housing office. This is set down in the tenancy agreement.

Practical Steps: Regular tenancy visits will identify if a property is empty.

ALMOs / BITMO undertake annual visits to service gas appliances. The Council is currently re-procuring gas contracts, and each bidder has stated that they will check tenants' identities during the visit, and report any irregularities to ALMOs / BITMO.

ALMOs / BITMO follow up reports from neighbours that a property is empty. They have hotlines for tenants to report when they suspect that a property may be sublet or abandoned.

ALMOs / BITMO have written procedures on how to deal with suspected abandonments, and the steps which should be taken. This includes standard letters to be sent to properties they suspect have been abandoned.

3.2.2 Wrongly claimed succession following the death of a tenant

*Example 1* A person claims a succession of a tenancy when they are not entitled to succeed

Enforcement: The rules on eligibility to succeed are set down in law. The law states that a potential successor must be one of the following: a joint tenant, spouse / civil partner of the tenant, someone living with the tenant as their spouse / civil partner, or the parent, child, sibling, grandparent, grandchild, uncle, aunt, nephew or niece of the tenant. Other than a joint tenant or a spouse / civil partner, the person must be able to show that they have been living with the tenant for at least 12 months before the death of the tenant. These rules are set down in the tenancy agreement. They are also set down in ALMOs / BITMO tenants' handbooks.

Practical Steps: ALMOs / BITMO request proof that a person is entitled to succeed before the succession takes place.

*Example 2* A person claims succession of a tenancy where there has been a previous succession.

Enforcement: By law, only one succession or can take place. This is set down in the tenancy agreement and in ALMOs / BITMO tenants' handbooks.

Practical Steps: The Housing Management IT system used by all ALMOs and BITMO states whether a succession has taken place. In addition, the information is held on the house file.

Strategic Landlord, with Legal Services, have produced a written procedure manual on successions, which clearly sets out these rules. This is used by all ALMOs and BITMO. In addition, Strategic Landlord offer advice to ALMO staff if they have any queries.

### 3.2.3 Unauthorised assignment of a tenancy to another person

*Example 1* A tenant assigns a tenancy to a person they are not entitled to.

Enforcement: A tenant may only assign a tenancy to a person who would be entitled to succeed if they died, as defined above. This does not apply to joint tenants. If one joint tenant leaves the property without giving notice, the other remains a tenant. If one joint tenant gives notice, the tenancy ends for both tenants, and no assignment can be made. A joint tenant wishing to end the tenancy should be advised of this before giving notice. These rules are set down in the tenancy agreement and the ALMOs / BITMO tenants' handbook.

Practical Steps: When a tenant requests permission to assign their tenancy, ALMOs / BITMO ask for proof that they are entitled to do so before allowing the assignment to go ahead.

*Example 2* A tenant who has already been assigned, or succeeded to, a tenancy assigns the tenancy to another person.

Enforcement: For these purposes, an assignment counts as a succession in law. This means that only one assignment or succession can legally take place. The tenancy agreement asks tenants to ask for more details before assigning a tenancy.

Practical Steps: The Housing Management IT system used by all ALMOs and BITMO states whether a succession or an assignment has taken place. In addition, the information is held on the house file.

Strategic Landlord, with Legal Services, have produced a written procedure manual on assignment of tenancies, which clearly sets out these rules. This is used by all ALMOs and BITMO. In addition, Strategic Landlord or Legal Services offer advice to ALMO staff if they have any queries.

### 3.2.4 Unauthorised mutual exchange of properties

*Example 1* A tenant exchanges properties with another tenant without consent

**Enforcement:** The tenancy agreement states that both tenants involved in the exchange must have the permission of both landlords. It also states that the council will take action to evict tenants who exchange without permission. Leeds Homes have produced a leaflet on mutual exchange, which includes information on the rules. This is published on the Leeds Homes website. Information on mutual exchange is also included in ALMOs' tenants' handbooks and on their websites.

**Practical Steps:** Tenancy audits will establish whether the person in residence is the tenant of the property.

*Example 2* A tenant exchanges properties with a tenant of a private landlord

**Enforcement:** By law, a council tenant may only exchange properties with tenants of another social landlord. This is set down in the tenancy agreement.

**Practical Steps:** ALMOs / BITMO check the address of the incoming tenant before allowing the exchange to take place.

Guidance on mutual exchange is included in Strategic Landlord's procedure manual on assignment of tenancies, which is used by all ALMOs and BITMO. In addition, Strategic Landlord or Legal Services offer advice to ALMO staff on any queries.

### 3.2.5 People who are ineligible for council housing obtaining a property through deception

*Example 1* A person who is ineligible for council housing on immigration grounds uses forged documents to obtain a property

**Enforcement:** Eligibility criteria for council housing are defined in law, and are set down in the Lettings Policy. Legal action can be taken against anybody attempting to commit fraud in this way.

**Practical steps:** All documents are checked by the ALMO at the point of application. This includes photographic proof of identity. In the case of asylum seekers, it includes proof of leave to remain, and in the case of economic migrants it includes proof that the applicant is working. Applications are only considered if the documents are supplied.

### 3.2.6 Unlawful subletting

*Example 1* A tenant has moved out of their property and has sublet it to somebody else

**Enforcement:** Subletting the whole of the property is unlawful. Rules on lodgers & subletting are set down in the tenancy agreement.

The Council has been given a grant of £50,000 by the government to help with work combating unlawful subletting.

Practical Steps: Strategic Landlord and Legal Services have developed written procedures for the ALMOs and BITMO. This includes legal definitions, information on prevention, guidance on investigation techniques, and evidence which is required to take action against tenants for subletting.

ALMOs / BITMO are currently running a proactive publicity campaign to raise awareness of subletting. The posters are designed to encourage tenants to report any suspicions that a property is being sublet. These posters and leaflets have been displayed in housing offices, and ALMOs and BITMO have put articles on their websites and newsletters. Further leaflets have recently been produced for the ALMOs and BITMO to distribute to properties in areas which have been identified as 'hotspot' areas.

ALMOs / BITMO have hotlines to the Corporate Contact Centre for people to report suspected cases of subletting or abandonment, anonymously if they prefer. All such reports are investigated in accordance with the procedures.

ALMOs / BITMO are making evening and weekend tenancy sweeps in flats and tower blocks to check that the tenant is in residence. The first such sweeps, in Briarsdale Court and Gipton Gate East, resulted in two new cases of potential subletting being found, and they are currently being investigated.

West North West Homes Leeds are currently planning a scheme by which communal locks in tower blocks are changed, and tenant ID requested before issuing a new key fob. This is to be piloted in one tower block in the Clydes in New Wortley. This scheme will be extended to other blocks across the city if it is found to be effective.

ALMOs / BITMO use the National Fraud Initiative (NFI) to identify possible cases of subletting. NFI collects property related data from social landlords, the Home Office, the Department for Work and Pensions, Immigration and Asylum, and can identify 'matches' where the same person appears to hold more than one tenancy in the social rented sector. This could indicate that the person is subletting one or all of the properties where they hold tenancies. These leads are then investigated in line with the Council's procedure guidance. NFI figures were released in March and 51 matches were found between Leeds and other social landlords. Of these, 26 have already been resolved: 6 were found to be different people with the same name and similar details, and the remaining 20 were people whose tenancies overlapped while they moved from one property to another. The others are still under investigation. One has already been referred to Legal Services as there is strong evidence that subletting is taking place.

The Council is currently developing partnerships with registered social landlords (Housing Associations) with properties in Leeds, to work on subletting together. This will help to identify any tenants

who hold more than one tenancy with different social landlords in the city. It will also help organisations to share information and expertise. 11 registered social landlords (RSLs) are so far working with the Council on this, and are currently planning the actions they will be undertaking with the Council's support. Between them, these 11 RSLs own almost 10,000 units, or two thirds of the RSL stock in the city.

#### **4 Implications for Council Policy and Governance**

- 4.1 The Council has a duty to ensure that best use of its stock is made, and that properties are allocated to people in housing need under the terms of the Lettings policy. By undertaking all the checks and actions as outlined above, it can be confident that this is being achieved.

#### **5 Legal and Resource implications**

- 5.1 The Council has been allocated a grant of £50,000 to work on combating unlawful subletting, including working with local RSLs. It is currently using this on a number of initiatives across the city.
- 5.2 Additional costs incurred by the ALMOs are being funded through this grant.
- 5.3 Increased legal costs may be incurred in taking legal action where cases of tenancy fraud are found.

#### **6 Conclusion**

- 6.1 There are a number of ways tenancies can be obtained through tenancy management fraud. The Council has a number of measures in place to ensure that they do not happen, and expect ALMOs and BITMO to work proactively to ensure that each property is occupied by the legitimate tenant. The Council supports the ALMOs and BITMO in their work on this, for instance by drawing up procedure notes, providing advice, and allocating a share of the government funding available.

#### **7 Recommendations**

- 7.1 That Corporate Governance and Audit Committee notes the contents of the report.

#### **Background Documents**

Fraudulent Tenancies, Corporate and Audit Committee Report, 26 Nov 2008

Phantom Tenancies, Corporate and Audit Committee Report, 30 April 2009

Tenancy Fraud, Environment and Neighbours Decision Panel Report 18 Dec 2009

Fraudulent Tenancies, Corporate and Audit Committee Report, 14 April 2010