



“A leading company in the provision of Business to business fraud investigation and prosecution services specialising in Housing Tenancy Fraud”

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Graham Knapper
Social Housing Fraud Consultation
Department for Communities and Local Government Zone 1/J9,
Eland House
Bressenden Place
London
SW1E 5DU

Dear Mr Knapper

BBFI's Response to the consultation on Social Housing Fraud

Please find detailed below, BBFI's response to the Government consultation on Social Housing Fraud.

BBFI are in support of the proposals and welcome the changes that will help social landlords to better manage social housing fraud ensuring best use of stock. We believe that the new powers and tools will send a clear message that housing fraud will not be tolerated and the consequences of committing fraud will act as a real deterrent.

Should you wish to discuss our response in more detail, please contact Maria McKeever; maria@bbfi.co.uk.

Yours sincerely

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Questions

Q1. Do you agree that a new criminal offence should be created?

We are in favour of the new proposals to criminalise subletting.

We agree that making subletting a criminal offence will act as a stronger deterrent to those considering subletting. We believe it is very important that tenancy fraud is tackled regularly and consistently. We welcome any proposals that will help to deter this fraud and prevent entitled families from being deprived of a decent home which they can build their lives around.

Q2. What would you consider to be a suitable maximum penalty for a Crown Court conviction for tenancy fraud?

We believe the penalty should be in line with the penalty for committing Housing Benefit Fraud. Therefore we believe that the appropriate maximum penalty should be 2 years imprisonment plus up to a £50,000 fine.

Q3. Do you agree with our core proposal to give a broad definition to 'tenancy fraud'? Which forms should be included?

We agree that a broad definition should be given to 'tenancy fraud'.

In our opinion it should include; subletting, key selling, unauthorised

assignment, assignment by deception, obtaining a tenancy by deception and also include those who assisted in providing false information or obtaining a tenancy by deception.

The definition should also include the wording contained within Ground 5, schedule 2 of the Housing Act 1985.

Q4. Do you agree that restitutionary payments should be introduced and, if so, should they be available in both the civil and the criminal court?

Yes, we agree that restitutionary payments should be available in both courts.

It is very important that these payments are available to provide an incentive to Landlords to prosecute rather than to quietly accept possession of the property when fraud is discovered. Regular prosecutions are essential to reinforce the Government's stance on tackling tenancy fraud and to ensure those considering fraudulent actions are aware there are consequences to those actions.

Q5. Should local authorities have the power to prosecute for tenancy fraud?

Yes we believe that the L.A should have the power to prosecute for tenancy fraud.

This power will act as a deterrent to others considering committing the fraud and will help to protect social housing as it is a valuable asset.

We believe that the legislation should be worded in such a way as to place a duty on the Local Authority to consider prosecution in all cases.

Q6. Do you agree that a mandatory gateway should be introduced?

Yes.

We believe a mandatory gateway compelling organisations such as Utilities companies to provide data will make tackling tenancy fraud possible for many social housing providers. However, the power to compel companies to provide information already exist in a less formal manner for Local Authorities and in our opinion these powers are being under utilized for the detection and prevention of tenancy fraud.

Currently Section 35 of the Data Protection Act 1998 gives the power to request information but it is our experience that Housing Providers struggle to obtain the information they have requested, often with companies refusing requests or failing to respond to requests.

We believe that a mandatory gateway should be introduced and that the use should also be available to RSLs.

The L&Q v Weaver case of 2009 declared that RSLs should be treated as public bodies. Therefore in our opinion, RSLs should also be given access to the mandatory gateway.

Q7. Do you agree that a mandatory gateway should cover banks, building societies and utility companies? Should other data holders be included?

Yes we agree that the above companies should be included but also included should be; HMRC, G.Ps, Schools, education institutions, employers, estate agents & DVLA.

Q8. How should the 'intention to return' be amended? What would be an appropriate period of time for which a tenant could be absent? What would constitute a necessary absence and what would constitute a voluntary absence?

We believe that the intention to return should be amended in line with the housing benefit legislation.

Any absence away from the home should be a necessary absence. E.g, 52 weeks if in hospital, fleeing domestic violence, caring for a

sick relative. The reasonable excuse should exclude custodial sentences and absences where no reason has been provided.

Contained within many tenancy agreements is an obligation that residents should not be absent from their home for more than 6 weeks without prior written agreement from the Landlord; therefore we would recommend the use of 6 weeks as a reasonable period of absence as a pragmatic approach given the pre-existence of that time period in many agreements.

Q9. Should assured tenancies be brought into line with secure tenancies, meaning that status cannot be regained once the whole of the property has been sublet?

Yes, we believe that assured tenancies must be brought into line with secure tenancies.

RSLs currently experience difficulties tackling tenancy fraud under existing legislation; therefore the legislation concerning assured tenancies would benefit from a clause replicating Section 98 of the Housing Act 1985 (concerning secure tenancies and loss of security).