

# STROUD DISTRICT COUNCIL

## HOUSING COMMITTEE

21 JUNE 2022

<b>Report Title</b>	<b>PROSECUTION OF HOUSING AND TENANCY FRAUD ON BEHALF OF SOCIAL HOUSING PROVIDERS</b>			
<b>Purpose of Report</b>	To provide the Housing Committee with a report summarising how Stroud District Council may assist with the prevention, detection and prosecution of housing and tenancy fraud on behalf of Social Housing providers.			
<b>Decision(s)</b>	<b>The Committee RESOLVES to:</b> <b>a) Note the content of the report;</b> <b>b) Endorse the use of appropriate enforcement powers and those powers set out in the Prevention of Social Housing Fraud Act 2013 (POSHFA); and</b> <b>c) Supports the prosecution (where appropriate) of housing and tenancy fraud offences committed in relation to properties owned by the Authority or Social Housing providers within the District.</b>			
<b>Consultation and Feedback</b>	Consultation took place with the Strategic Director of Resources and the Strategic Director of Communities.			
<b>Report Author</b>	Emma Cathcart, Head of Service Counter Fraud and Enforcement Unit Email: <a href="mailto:Emma.Cathcart@cotswold.gov.uk">Emma.Cathcart@cotswold.gov.uk</a>			
<b>Options</b>	The Prevention of Social Housing Fraud Act 2013 permits Local Authorities to investigate and prosecute for dwelling-houses not owned by it and/or situated outside of its area. For cases relating to offences under this legislation, a case relating to properties situated within the District could be investigated and prosecuted by another Local Authority.			
<b>Background Papers</b>	None.			
<b>Appendices</b>	None.			
<b>Implications (further details at the end of the report)</b>	Financial	Legal	Equality	Environmental
	Yes	Yes	Yes	No

### 1. INTRODUCTION / BACKGROUND

- 1.1. Housing and Tenancy Fraud is identified as being one of the highest risk areas within the public sector causing significant loss to the public purse.
- 1.2. The Counter Fraud and Enforcement Unit (CFEU) reviews housing lists across the partnership to assist in keeping temporary housing costs to a minimum.

- 1.3. At the time of writing the CFEU delivers counter fraud services to a number of local and national Social Housing providers. They investigate allegations relating to unlawful subletting, false housing applications, key selling, abandonment, right to buy / right to acquire and wrongly claimed succession / transfer of tenancies.
- 1.4. The Cabinet Office has estimated the following savings to Social Housing Providers and Councils:
  - tenancy fraud - £93,000 per property recovered based on average four year fraudulent tenancy. This includes temporary accommodation for genuine applicants, legal costs to recover the property, re-let cost and rent foregone during the void period between tenancies.
  - right to buy - £65,000 per application withdrawn based on average house prices and minimum right to buy discount.
  - housing waiting list misrepresentation - £10,000 per applicant removed based on 1 year local temporary accommodation cost for genuine applicants. The national fraud initiative applies a more conservative estimate of £3,240 per case for future losses prevented as a result of removing an applicant from council housing waiting list.

## **2. MAIN POINTS**

- 2.1. Some of the activities outlined in 1.3 above are in breach of the Prevention of Social Housing Fraud Act 2013 (POSHFA) which introduced specific criminal offences in relation to tenancy fraud.
- 2.2. POSHFA enables Local Authority employees to obtain information where there has been alleged fraudulent activity and, where this is found, gives Local Authorities powers to prosecute.
- 2.3. The CFEU utilises these powers and other appropriate legislation to investigate such fraudulent activity on behalf of Social Housing providers.
- 2.4. POSHFA permits a Local Authority to investigate and prosecute for dwelling-houses not owned by it and/or situated outside of its area. However, due to the local impact, it would be preferable, where possible, for the Local Authority with responsibility for the area in which the property is situated to undertake the proceedings.
- 2.5. Where other legislation is utilised for prosecution proceedings, such as the Fraud Act 2006 or the Housing Acts, the CFEU will still have undertaken an investigation and obtained evidence as Local Authority employees. Any potential prosecution proceedings relating to that case would need to be undertaken by the investigating Local Authority as the prosecuting body.
- 2.6. In exceptional circumstances, where the CFEU has undertaken an investigation for a Social Housing provider in relation to a property that falls outside of the District, the Local Authority may still consider undertaking a prosecution if appropriate to do so.
- 2.7. Any legal fees and costs associated with such investigations would be met by the client housing provider and would therefore contribute towards the costs of the Local Authority's legal team. Overall the financial impact is expected to be cost neutral to the Local Authority.

- 2.8. Where the property is not owned by the Local Authority we will seek to recover the legal costs from the Social Housing provider.
- 2.9. Prosecutions will only be considered where the evidential and public interest tests are met with due consideration to the welfare of individuals.
- 2.10. The Local Authority will only take enforcement action where appropriate to do so with due consideration to older offenders, offenders with disabilities and where the offender lacks mental capacity.

### **3. CONCLUSION**

- 3.1. In administering its responsibilities the Local Authority has a duty to prevent fraud and corruption within its District, to protect the interests of the local community and deter wrongdoing.
- 3.2. More widely, in supporting the providers of social housing outside of the District, who may not have access to specialist criminal enforcement officers, the Local Authority is promoting a message of zero tolerance and ensuring affordable housing is available for those genuinely in need.
- 3.3. The POSHFA legislation dictates that only a Local Authority may utilise the Act to obtain intelligence and prosecute the offences therein. The CFEUU is unique in that there are very few dedicated criminal housing enforcement teams who have the requisite skills to provide these services, so the Social Housing provider may not be able to work with the Local Authority with geographical responsibility.

### **4. IMPLICATIONS**

#### **4.1. Financial Implications**

- 4.1.1. Overall the financial impact is expected to be cost neutral to the Council. The resultant recovery of properties and financial benefits are set out in 1.4.

Andrew Cummings, Strategic Director of Resources  
Email: [Andrew.Cummings@stroud.gov.uk](mailto:Andrew.Cummings@stroud.gov.uk)

#### **4.2. Legal Implications**

- 4.2.1. Under the Prevention of Social Housing Fraud Act 2013 Local Authorities can prosecute for offences relating to tenancy fraud. The Act empowers Local Authorities to prosecute in relation to properties let by the Local Authority or in cases where the social housing is let by Registered Social Landlords. A Local Authority can also prosecute in respect of tenancy fraud whether or not the property is located in the Local Authority's area.

One Legal  
Email: [legalservices@onelegal.org.uk](mailto:legalservices@onelegal.org.uk)

### 4.3. **Equality Implications**

- 4.3.1. The Local Authority will only take enforcement action where the evidential and public interest tests are met and it is appropriate to do so with due consideration to older offenders, offenders with disabilities and where the offender lacks mental capacity.

### 4.4. **Environmental Implications**

- 4.4.1. There are no significant implications within this category.