

ENVIRONMENT SCRUTINY COMMITTEE

MONDAY 18TH MARCH, 2013

**AT 6:00PM
IN COMMITTEE ROOM 2
THE COUNCIL HOUSE
DUDLEY**

If you (or anyone you know) is attending the meeting and requires assistance to access the venue and/or its facilities, could you please contact Democratic Services in advance and we will do our best to help you

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ASSISTANT DEMOCRATIC SERVICES OFFICER
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IMPORTANT NOTICE

MEETINGS IN DUDLEY COUNCIL HOUSE

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In the event of the alarm sounding, please leave the building by the nearest exit. There are Officers who will assist you in the event of this happening, please follow their instructions.

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Your ref:

Our ref:
05/11/12/HS

Please ask for:
Miss H Shepherd

Telephone No.
(01384) 815271

7th March, 2013


Dear Member

Meeting of the Environment Scrutiny Committee – Monday 18th March, 2013 – 6.00pm

You are requested to attend a meeting of the Environment Scrutiny Committee to be held on Monday 18th March, 2013 at 6.00pm in Committee Room 2 at the Council House, Dudley to consider the business set out in the Agenda below.

The agenda and reports for this meeting can be viewed on the Council's internet site www.dudley.gov.uk and follow the links to Meetings and Decisions.

Yours sincerely



Director of Corporate Resources

A G E N D A

1. APOLOGIES FOR ABSENCE

To receive apologies for absence from the meeting.

2. APPOINTMENT OF SUBSTITUTE MEMBERS

To report the appointment of any substitute members serving for this meeting of the Committee.

3. DECLARATIONS OF INTEREST

To receive Declarations of Interest in accordance with the Members' Code of Conduct.

4. MINUTES

To approve as a correct record and sign the Minutes of the meeting of the Committee held on 5th November, 2012 (copy attached).

5. PUBLIC FORUM

6. TRADE WASTE RECYCLING (PAGES 1 - 2)

To consider a report of the Director of the Urban Environment.

7. AN UPDATE ON AIR QUALITY WITHIN DUDLEY METROPOLITAN BOROUGH (PAGES 3 - 6)

To consider a report of the Director of the Urban Environment.

8. REGULATION OF THE PRIVATE RENTED SECTOR (PAGES 7 - 17)

To consider a report of the Director of Adult, Community and Housing Services.

9. HOUSING FRAUD (PAGES 18 - 97)

To consider a report of the Director of Adult, Community and Housing Services.

10. REVIEW OF ALLOCATIONS AND TENANCY POLICY (PAGES 98 - 105)

To consider a report of the Assistant Director of Housing Services, Directorate of Adult, Community and Housing Services.

11. TO ANSWER QUESTIONS UNDER COUNCIL PROCEDURE 11.8 (IF ANY).

AND QUESTIONS ON INFORMATION ITEMS PREVIOUSLY CIRCULATED SEPARATELY.

Members are asked to e-mail Helen Shepherd, at the address shown on the agenda cover, at least three working days before the meeting details of any questions they would wish to raise ON THE INFORMATION ITEMS.

This will enable responses to the questions to be circulated prior to the meeting.

Questions on information items raised at the meeting will receive a written response following the meeting.

To: All Members of the Environment Scrutiny Committee, namely:

M. Aston	Boleyn	Duckworth	A Finch	Hanif
Harley	James	Jordan	J Martin	Mrs Shakespeare
Mrs H Turner				

ENVIRONMENT SCRUTINY COMMITTEE

Monday 5th November, 2012 at 6.00 pm
in Committee Room 2, The Council House, Dudley

PRESENT:-

Councillor Hanif (Chair)

Councillors M Aston, Boleyn, Duckworth, Harley, James, L Jones, Jordan, J Martin, Mrs Turner and Tyler.

Officers

Director of Corporate Resources (As Lead Officer to the Committee), Assistant Director of Planning and Environmental Health, Assistant Director of Environmental Management, Head of Environmental Health and Trading Standards (All Directorate of Urban Environment); Assistant Director of Housing Services (Directorate of Adult, Community and Housing Services), Treasurer and Miss H Shepherd (Both Directorate of Corporate Resources).

21. **APOLOGIES FOR ABSENCE**

Apologies for absence from the meeting were submitted on behalf of Councillors A Finch and Mrs Shakespeare.

22. **APPOINTMENT OF SUBSTITUTE MEMBERS**

It was noted that Councillors Tyler and L Jones had been appointed as substitute members for Councillors A Finch and Mrs Shakespeare, respectively, for this meeting of the Committee only.

23. **DECLARATIONS OF INTEREST**

No member made a Declaration of Interest in accordance with the Members Code of Conduct.

24. **MINUTES**

RESOLVED

That, the minutes of the meeting of the Committee held on 5th September, 2012, be approved as a correct record and signed.

25. PUBLIC FORUM

No matters were raised under this agenda item.

26. REVENUE BUDGET STRATEGY 2013/14

A joint report of Officers was submitted to consult with Members on the Revenue Budget Strategy for 2013/14 and the Medium Term Financial Strategy.

Arising from the presentation given, a Member raised concerns with regard to the spending pressures and the calculation of the landfill and waste costing. The Assistant Director of Environmental Management stated that the landfill tax, set nationally, had increased by £8 per ton and that domestic waste being incinerated had reduced but was unpredictable. It was anticipated that there would be more waste recycled, which would reduce landfill and free up additional capacity at the plant which would be offered out to other waste organisations.

In response to further questions the Assistant Director of Environmental Management informed the Committee that the green waste fleet vehicles were hired on a five-year lease, however due to new technology and reliability of the vehicles, it was considered that the vehicles could run over a 7 year period. The reduction in green waste care business had been factored in, but it was considered that the vehicles worked excessively during the months of April to October. It was considered that a generic fleet would be more beneficial and efficient for the Authority. It was also stated that the introduction of wheelie bins would be factored in with the roll out of the recycling scheme and that funding for the wheelie bins would be obtained from the black sack capital and from the reduction in the number operatives. It was confirmed that it costs £52 per ton to incinerate waste and £72 per ton for landfill.

A Member raised concerns with regards to the savings required relating to the reduction in road and footway reconstruction and resurfacing and referred to the current scheme and the visible improvements. The Assistant Director of Environmental Management stated that it was a significant cut to the programme and that it would affect future schemes. He also confirmed that the programme would not be able to work as it was currently and that different methods and materials would be utilised, but intelligence would be used to determine and prioritise the areas that were most in need of maintenance work.

In response to a question the Assistant Director of Environmental Management stated that Ward Members, together with the Cabinet Member for Transportation and Community Safety would all be consulted with regard to the consideration of implementing charges on currently free parking car parks.

With reference to paragraph 36 of the report submitted relating to public consultation, a member raised concerns and requested that other methods of communicating the consultation be explored to ensure that all residents were consulted. It was stated that the consultation would be wider spread than just the internet and would also include meeting with an array of community groups across the borough.

Arising from a question the Assistant Director of Environmental Management advised that the Council currently worked with partners when resurfacing roads and footpaths and that specialised machinery was supplied by partners to recycle old surfaces, which when mixed with a few additional materials was re-invigorated and re-laid. This procedure was being monitored but it was confirmed to be satisfactory, sustainable and environmentally friendly.

A Member requested assurance that the reduction in grounds maintenance would not impact on public rights of way as this was a safety issue and problems with anti social behaviour were already being experienced in certain areas and that the reduction in gully drain emptying would not increase flooding issues within the borough which could subsequently then impact on the quality of road surfaces. The Assistant Director of Environmental Management stated that grounds maintenance would need to prioritise areas to be maintained, however regular inspections of public rights of way would be adhered to due to legal obligations. All maintenance works would be prioritised in relation to potential hazards to the public and that gully emptying would be impacted, but known hotspots that were expected to flood would take priority.

RESOLVED

That the Cabinet's Revenue Budget Strategy proposals for 2013/14 and Medium Term Financial Strategy, as set out in the report, and appendix A to the report, submitted, be noted and that the Cabinet be informed that there were no specific issues that this Committee would wish to raise.

27. ROGUE TRADERS AND DOORSTEP CRIME

A report of the Director of the Urban Environment was submitted on the role of Dudley Trading Standards Service in combating problems of Doorstep Crime and investigating rogue traders.

Following the presentation a Member commended the Fix a Home scheme but raised concerns in relation to ex-offenders knocking on doors selling items and considered that this could be intimidating for residents especially the elderly. It was suggested that the Council could possibly have a register for anyone who wished to sell door to door and that an identity card could be issued with a registered number, which it was considered, would give residents more assurance when approached. The Head of Environmental Health and Trading Standards agreed to explore this option with colleagues and legal services.

In response to a question raised the Head of Environmental Health and Trading Standards stated that there were no immediate plans to extend the 'No Rogue Trader Zone', but would continue to work with West Midlands Police in identifying hotspots within the borough.

Arising from a question raised the Head of Environmental Health and Trading Standards confirmed that the Council did not actively promote the Fix a Home list to Traders, Traders contacted the Council direct if they wished to be included. However the possibility of advertising to extend the list would be investigated.

Concerns were raised by Members that residents within the 'No Rogue Trader Zone' had not received the documentation referred to in the report and questioned where the figures, referring to residents feeling safer in their homes since the introduction of the zone, had been obtained. The Head of Environmental Health and Trading Standards stated that the figures had been obtained from a national survey and did not solely relate to Dudley. He also stated that further publications could be printed and distributed to areas that had been missed during the original distribution.

In response to a further question raised it was confirmed that it was completely free for a trader to be registered on the Fix a Home traders list, but traders would be required to attend an interview which lasted approximately one hour and provide a series of references before being accepted. It was stated that following any work carried out by a trader on the list, a survey was sent to the resident to complete providing feedback on the work carried out. Any traders considered to be unsatisfactory would be removed from the list and no longer recommended. It was also stated that Age UK Dudley funded the Fix a Home brochure that was produced and distributed.

Following discussions it was considered by a Member that if a register for door-to-door sales and identity cards were to be implemented, it was important for the scheme to be promoted to ensure resident awareness.

RESOLVED

- (i) That the information contained in the report submitted, on the role of the Dudley Trading Standards Service in combating the problems of Doorstep Crime and investigating Rogue Traders, be noted.
- (ii) That the Head of Environmental Health and Trading Standards explore the option of having a register for door to door salespersons with colleagues and legal services and report back to the Committee.

AGE RESTRICTED PRODUCTS ENFORCEMENT

A report of the Director of the Urban Environment was submitted updating Members on legislation enforcement and advice activity carried out by the Trading Standards Service concerning the sale of alcohol to persons aged under eighteen and to provide an annual report to Members on tobacco enforcement activity as required by specified legislation.

Arising from a question it was confirmed by the Head of Environmental Health and Trading Standards that there was currently no monitoring mechanism in place for sale of lottery tickets or scratch cards to under age persons.

Members commended Officers involved in Alcohol Enforcement for the excellent work that they did and the paper work that was produced.

In response to a question it was stated that a person obtaining alcohol on behalf of an under age person, known as a 'proxy sale', was also classed as an offence and with sufficient evidence could result in legal action.

Arising from a question the Head of Environmental Health and Trading Standards agreed to provide the Committee with a breakdown of the areas where test sales had taken place and report to a future meeting of the Committee on the work carried out in relation to the sale of fireworks.

The Head of Environmental Health and Trading Standards also agreed to provide Members with the number of cases in which Dudley and Her Majesty's Revenue and Customs had worked together in combating counterfeit and illicit alcohol and tobacco.

In response to a question, the Head of Environmental Health and Trading Standards explained the procedure of a test purchase and referred to the officers who would be present. He also confirmed that Dudley worked in conjunction with NHS Dudley to help promote health related issues in relation to the dangers of purchasing counterfeit and illicit products.

RESOLVED

- (i) That the information contained in the report submitted, on legislation enforcement and advice activity carried out by the Trading Standards Services concerning the sale of alcohol to persons aged under eighteen and the annual report on tobacco enforcement activity as required by specified legislation, be noted.
- (ii) That the Head of Environmental Health and Trading Standards report back to a future meeting of the Committee with a breakdown of the areas in which test sales had taken place and report on the work carried out in relation to the sale of fireworks to underage persons.

- (iii) That the Head of Environmental Health and Trading Standards provide Members with the number of cases in which Dudley and Her Majesty's Revenue and Customs had worked together in combating counterfeit and illicit alcohol and tobacco.

29. WEST MIDLANDS BEST USE OF STOCK (WMBUS) INITIATIVE

A report of the Director of Adult, Community and Housing Services was submitted on the collaborative work that was being undertaken by the major social landlords in the region.

Arising from the presentation the Chair expressed the importance of Members attending the Welfare Reform Awareness training that would be provided and asked the Assistant Director of Housing Services to e-mail all Members again once dates had been confirmed.

The Assistant Director of Housing Services confirmed that it was anticipated that there would be two working group meetings before Christmas to discuss the Allocations Review and Tenancy Policy and the Housing Strategy.

A Member requested an assurance that in respect of persons involved in the cross borough exchanges the Council would be provided with the persons housing history prior to the exchange.

Following discussion a Member expressed the need for a mechanism to be built in to the allocation process to address individual exceptional cases. The Assistant Director of Housing Services stated that this policy was considered at the former Choice Based Lettings Working Group, but could be re-addressed at the new working group once fully established if the group felt it appropriate.

In response to a question from a Member relating to the 'bedroom tax' the Assistant Director of Housing Services stated that apart from claimants over pensionable age, there were no exceptions to the measure regardless of the claimant's circumstances. This is likely to be subject to legal challenge as in a private sector case the Court of Appeal had ruled that the legislation discriminated against people needing an extra bedroom for a carer or because children cannot share a bedroom as a result of a disability.

A Member raised concerns with regards to the housing bidding process, especially for elderly residents who did not have access to the internet or were not confident in using the system and asked if there was data on how efficient the bidding system was. The Assistant Director of Housing Services stated that no resident should be disadvantaged by the system and that Officers offered a service where they would place bids on that person's behalf. The Member accepted this but expressed concern that the system did not encourage people who were under occupying a property to consider moving. The Assistant Director of Housing Services agreed to look in to this and provide a written response to the Member.

RESOLVED

- (i) That the information contained in the report submitted, on the collaborative work that was being undertaken by the major social landlords in the region, be noted.
 - (ii) That the Assistant Director of Housing Services e-mail all Members confirming dates of the Welfare Reform Awareness training.
 - (iii) That two meetings of the Housing Working Group be held before Christmas to consider the Allocations Review and Tenancy Policy and the Housing Strategy.
 - (iv) That the Assistant Director of Housing Services provide a written response to a Member in regard to the promotion of re-housing to people under occupying their homes.
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The meeting ended at 7.55 pm.

CHAIR

Meeting of the Environment Scrutiny Committee – 18th March 2013

Report of the Director of The Urban Environment

Trade Waste Recycling

Purpose of Report

1. To update the Committee on proposals to increase trade waste recycling.

Background

2. Current collection services for trade waste are only for mixed waste that is delivered to the waste to energy plant at Lister road. This waste is incinerated to produce electricity which is transmitted into the local grid network. Trade waste is collected by a dedicated fleet of 4 vehicles fitted with container lifts. These vehicles also collect household waste from flats. It is very difficult to accurately determine performance on trade waste due to the mixed nature of the collections. Our trade waste service performs well and is competitive, with a focus on smaller businesses.
3. Trade Waste recycling is not a new issue. Some trade waste recycling services have been previously offered, mainly for glass cullet but take-up was poor. This lack of success can be attributed to lack of suitable infrastructure for collection and storage, and also because of a lack of promotion, and integration into the Council's mainstream collection services. It was also at a time when culturally trade waste recycling was not an accepted norm. The introduction of a national waste strategy, and the promotion of the waste hierarchy, i.e. more minimisation and recycling, less landfill and disposal, has led to changes in waste collection practices nationally.
4. Some recent review work has been undertaken to examine the scope for the expansion of recycling collections to trade premises. This is part of a wider improvement agenda for waste collection services. This will include a change to wheeled bins for residual household waste, and also the introduction of an enhanced recycling collection service following the recent award of £1.8 million from 2014 via the 'Pickles millions' bid for government weekly collection support funding.
5. As a precursor some initial work has been done to review the provision of trade waste collections, in light of these service developments. Under future plans trade waste will be collected separately by dedicated rounds, and household waste will also be separately collected. This will be integrated as far as possible into the new rounds for wheeled bins. All collection rounds, for all services, will be reviewed and optimised using software. Trade recycling will be integrated into the wider enhanced new recycling rounds. Some case study work has been done on other Council's that collect trade recycling, including Oxford, Canterbury, Cheltenham and Wealden. This experience will inform the process and provide a template for service change.

Materials collected include paper, card, plastic bottles, cans, glass containers and cardboard. These will all be included in the revised recycling collections.

6. It is worth pointing out that these proposals for improved recycling collections also include schools, and council premises. Part of the funding package awarded will facilitate routine, free collections from schools within the borough, and also from Council offices. The overall idea is to promote and stimulate recycling across all of the areas served by the current collection services. Part of the plan will also be to develop mechanisms to encourage the general public to greater participation in recycling, possibly through reward schemes.

Finance

7. This report is provided for information purposes only so there are no direct financial implications from this report. The costs for service development will be met from existing planned budgets, with additional support from the Weekly collection support funding grant.

Law

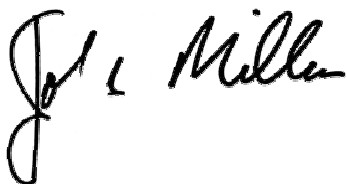
8. The Council's duties and powers regarding waste management, including recycling, and the collection and disposal of waste, are set out in Part II of the Environmental Protection Act 1990, as amended.
9. Pursuant to Section 1 of the Localism Act 2011, the Council has the general power of competence to do anything that individuals generally may do.

Equality Impact

10. There are no equality issues arising from this report, which is provided purely for information purposes.

Recommendation

11. That the Committee notes the future service development proposals for trade waste collections and recycling.



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John Millar
Director of the Urban Environment

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Environmental Scrutiny Committee – 18th March 2013

Report of the Director of The Urban Environment

An update on Air Quality within Dudley Metropolitan Borough

Purpose of Report

- 1.1 This report is to provide members with an update on the current situation with respect to air quality within Dudley Metropolitan Borough. It addresses the following areas of work;
- a. Air Quality monitoring undertaken within Dudley Borough.
 - b. Air quality issues in specific areas of the Borough.
 - c. Air Quality Action Plan progress & monitoring.
 - d. Defra funded projects
 - e. Statutory Requirements for 2013.

Background

- 2.1 Dudley Metropolitan Borough Council has a statutory duty under the provisions of the Environment Act 1995 to review and assess air quality in its area. The latest edition of the UK National Air Quality Strategy (NAQS) published in 2007 identifies nine key pollutants which can adversely affect human health.
- 2.2 Since 1997, Dudley MBC has either monitored or modelled concentrations of all NAQS pollutants across the Borough. This work indicates that levels of nitrogen dioxide at certain locations within the Borough do not meet the government objectives but concentrations of all other pollutants covered by the NAQS are currently compliant. The Council continues to monitor concentrations of nitrogen dioxide and fine particulates to comply with its obligations under Local Air Quality Management (LAQM) requirements. Although compliant, fine particulate matter is still monitored for trend purposes as high concentrations of this pollutant have been scientifically linked to increased mortality rate.
- 2.3 Dudley MBC is legally required to declare one or more Air Quality Management Areas (AQMAs) for those parts of the Borough in which the air quality objective is likely to be exceeded. Declaration of The Dudley Borough AQMA was completed in December 2007, amalgamating the former AQMAs of Brierley Hill and Sedgley.
- 2.4 Dudley MBC is legally required to produce an Air Quality Action Plan (AQAP). The Borough AQAP has an associated work programme to control air quality and where practicable reduce concentrations of pollutants. The Work programme is reviewed every year & updated accordingly. Progress with the Air Quality Action Plan is closely monitored and reported on a quarterly basis.

2.5 The AQAP examines all of the major issues which can influence air quality, including the highway network, land use planning, industrial & commercial emissions, and how DMBC can “lead by example”. The annual work programme utilised to implement the practical applications required by the AQAP to control air quality has 40 separate actions planned for 2012 / 13, 100% of the targets for the first 6 months of 2012 / 13 have been achieved by the end of September, they include;

- (i) A revised road marking layout has been introduced at the Dudley St / Vicar St junction in Sedgley to reduce the blocking effect caused by vehicles waiting to turn right into Vicar Street
- (ii) Increased provision of travel plans in private companies operating within Dudley Borough to exceed the 18% target
- (iii) The introduction of a Parking Supplementary Planning Document which requires the provision of electric vehicle charging points at new developments within the Borough
- (iv) An independent review of the waste collection fleet operated by the Council to identify fuel cost optimisation and to minimise emissions to air.

2.6 The Borough wide air quality monitoring programme will continue during 2013/ 14. The monitoring programme provides essential data to inform the ongoing review and assessment process. In particular monitoring continues at the following locations:

- (i) The air quality station at Burnt Tree Island will monitor air quality impacts of the retail development expansion at Town Gate Retail Park. This project is being funded via a Section 106 agreement with the developer (Tesco) to validate the results of their air quality assessment. The monitoring project is due for completion in 2013 / 14.
- (ii) Air quality monitoring continues at the road side site in High Street, Wordsley.
- (iii) The urban background air quality monitoring station located in the Members car park, off St James’s Road, Dudley, continues to provide essential background information. The unit is due to be re-located to the rear of 4 Ednam Road.
- (iv) The roadside station at Colley Gate, Cradley, continues to provide essential information on air quality in Windmill Hill
- (v) In addition, there are approximately 80 nitrogen dioxide diffusion tubes located at strategic locations throughout the Borough. These locations have been chosen to reflect new areas for consideration or to measure the effectiveness of actions being carried out as part of the Air Quality Action Plan.

2.7 Dudley MBC’s 2012 annual Air Quality Report was submitted to Defra in April 2012 and has been accepted. Ongoing exceedences of the annual mean objective for nitrogen dioxide were confirmed at a number of roadside locations throughout the Borough. The major source of pollution in these areas has been identified as road traffic.

- 2.8 It should be noted that the third year's air quality monitoring in Brierley Hill following the implementation of the Sustainable Access Network scheme has confirmed a significant reduction in nitrogen dioxide levels in the High Street. It is proposed to retain a small number of monitoring tubes in this area for evaluation of future pollution trends.
- 2.9 In 2010 Dudley and the 6 other West Midlands Metropolitan Authorities received a grant of £100,000 to initiate a Low Emission Strategy (LES) pilot programme. In 2011 Defra provided a further £120,000 to extend the boundaries of the LES programme and incorporate a West Midlands Low Emission Zone (LEZ) feasibility study. In 2012 Defra provided a further £150,000 to extend the LEZ study to examine The LES programme specifically examines the issues of common "planning for air quality" guidance, stimulating the uptake of low emissions technologies and strategies and establishing a sustainable procurement process. Dudley has taken a lead in the planning guidance project which is due for completion in the spring of 2013.
- 2.10 In addition to the Defra grants for the West Midlands, Dudley Council continues to utilise the £9,900 provided to fund a joint project to be undertaken by the Environmental Protection and Traffic and Road Safety Teams. The project will raise awareness of air quality issues in school with particular emphasis in reducing emissions associated with idling vehicles.
- 2.11 The Air Quality Action Plan is scheduled for review by 31st March 2014 it is also our ambition to produce a Dudley Air Quality Strategy to compliment the revised AQAP which clearly states the Council's position on air quality and climate change issues.
- 2.12 Air quality monitoring and the declaration of a whole Borough Air Quality Management Area and the subsequent Air Quality Action Plan are designed to help reduce concentrations of specific pollutants in air to within National Objectives. This will have a positive impact on the environment and the health of all people residing and working within the Borough.

Dudley's Air Quality action plan can be viewed on the Council's web pages via the link below.

<http://www.dudley.gov.uk/environment-planning/pollution-control/air-quality/air-quality-action-plan-consultation/>

Finance

- 3.1 Air Quality Monitoring work has to be funded from within existing budgets and from external grants as they become available. The financial implications of activities identified within Air Quality Action Plan will need to be funded on a case by case basis.

Law


- 4.1 Dudley Metropolitan Borough Council has a statutory duty under the provisions of Part IV of the Environment Act 1995 to review and assess air quality in its area.

Equality Impact

- 5.1 The proposals in this report do not impact on relevant groups or conflict with the Council's commitment to equality.

Recommendation

- 6.1 It is recommended that members,
- a) Note the progress made with air quality monitoring and compliance with the Air Quality Action Plan
 - b) Support continued monitoring in 2013 / 2014 together with continued work to reduce air pollution in accordance with the aims of the Air Quality Action Plan and in partnership with the other 6 West Midlands Metropolitan Authorities.



John Millar
Director of Urban Environment

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List of Background Papers

Dudley's Air Quality Action Plan
The Environment Act 1995, Part iv
Air Quality Limit Values Regulations (as amended) 2001
Local Air Quality Management Guidance
Local Air Quality Management Policy Guidance
The United Kingdom National Air Quality Strategy
2012 Upgrading & Screening report to Defra

Environment Scrutiny Committee – 18th March 2013

Report of the Director of Adult Community and Housing Services

Regulation of the Private Rented Sector

Purpose of Report

1. To provide Environment Scrutiny Members with a current position statement relating to the regulation of private rented housing (PRS).

Background

2. In 2008 the Minister for Housing commissioned an independent review of the private rented sector (**Rugg Review**). The review was set in the context of change in the sector as failures in other parts of the housing market had focused attention on the growth of private renting and its interaction with owner occupation and social housing. Questions were being asked about whether it would be possible to increase the supply of rented housing to meet the overall growing demand.

The comprehensive review addressed areas where the sector had reportedly been underperforming namely:

- Delivering new and affordable property supply
- Securing higher levels of institutional investment
- Professionalising rental housing management
- Improving property quality
- Providing sustainable tenancies
- Homelessness prevention and discharging homelessness duty
- Managing problem private renting

The report concluded by outlining 6 policy 'directions of travel' including the need for a sound evidence base and a firm understanding of the PRS from local to national level, encouragement of a better understanding of managing rented housing, development of initiatives to 'grow' the sector and light touch licensing and effective redress to target the very worst landlords.

- 2.1 Regulations were proposed following this review but were later rejected following a change in Government policy. It was stated that as the vast majority of England's 3 million private tenants were happy with the service that they received it was considered that the current system struck the right balance between the rights and responsibilities of tenants and landlords. The Government had no plans to create any burdensome red tape and bureaucracy. Local Authorities were instead expected to use the range of powers currently available to them to tackle "rogue landlords" and aspiring homeowners would be at the heart of the governments housing strategy. A subsequent guide for Local Authorities to assist in dealing with rogue landlords was published in August 2012.

- 2.2 The national debate has continued and the issues raised by the Rugg review continue to be relevant in the current market. In October 2012 the Communities and Local Government Committee commenced an **Inquiry into the PRS** to consider issues relating to quality of accommodation, rent levels, regulation of landlords and lettings agents, tenancy agreements, licensing of houses in multiple occupation and discharge of homelessness duty in the PRS. The outcome of this inquiry is expected in mid / late 2013.
- 2.3 A **National Private Landlords Survey** was carried out in 2010 that provided some key information on the private rented stock. Some of the key findings were:
- 89% of landlords were private individual landlords responsible for 71% of all private rented dwellings, with a further 5% of landlords being company landlords responsible for 15% of dwellings.
 - 78% of landlords only owned a single dwelling for rent.
 - Only 8% of landlords were full time landlords.
 - 51% of all dwellings were acquired since 2000, 25% in the ten years between 1990 and 1999.
 - 97% of landlords made use of written tenancy agreements
 - 91% required a deposit
 - 84% required tenants to provide references
- 47% of landlords were happy to take tenants on housing benefit / local housing

Regulatory Powers

3. The area of regulation within the PRS is a sometimes complex area governed by much primary and secondary legislation details of which are contained in Appendix 2. Each piece of legislation will identify who is responsible for enforcement and this will vary with subject area. The power of enforcement devolves not only to national and local bodies e.g. local authorities, Police and Fire and Rescue Services, Health and Safety Executive, HMRC, UKBA etc., but also provides a framework for landlords and tenants to take responsibility for pursuing their own action in some circumstances.

This paper will deal with the primary regulatory powers for this sector available to local housing authorities.

- 3.1 The **Landlord and Tenant Act 1985** details the responsibilities and repairing obligations of both the landlord and tenant. In general the landlord will be responsible for keeping in good condition the structure and exterior of the property together with its installations for the supply of water, gas, electricity and sanitation. The landlord would not be required to carry out repairs resulting from the tenants failure to use the property in a tenant like manner.
- 3.2 There are many different types of agreements available to landlords to let properties i.e. secure tenancy, protected tenancy, licence to occupy, leases etc. which will provide varying degrees of rights to the occupier. Some agreements will provide substantial rights to remain in occupation whilst others will not. The most common agreement used now by landlords is the assured shorthold tenancy. This will enable the tenant to remain in their home until the landlord has obtained a possession order through the court or until if they decide to surrender the tenancy after the initial tenancy term.

The substantial difference in terms of protection for tenants in assured shorthold tenancies is that no grounds for possession have to be stated by the landlord to obtain possession. This is very different to the other types of agreement where possession can only be granted on specific grounds which would have to be evidenced e.g. rent arrears, anti social behaviour etc.

- 3.3 The local housing authority i.e. Private Sector Housing Services, DMBC (PSH) would become involved if action was taken by a landlord to illegally evict or harass a tenant under the **Protection from Eviction Act 1977**. The correct procedure must be taken by the landlord to gain possession of the property which includes service of 'notice to quit', and obtaining a 'possession order' in the County Court.
- Unfortunately this is often time consuming and expensive for landlords which can lead to situations where tenants are deprived of their homes prematurely either forcibly or voluntarily either through lack of knowledge or frustration on behalf of the landlord. However any action taken by a landlord throughout the life of tenancy to deprive a tenant of services, or if they conduct themselves in such a manner as to affect the tenants occupation of the property etc. could be construed as harassment. Neither of these circumstances is acceptable and enforcement action would be taken against the landlord in accordance with the current Enforcement policy. A close working relation exists with the Homelessness Team to ensure appropriate action is taken to safeguard landlord and tenants rights in these circumstances.
- 3.4 Landlords are encouraged to attend local courses designed to increase their knowledge leading to improved professionalism and management of their property portfolio and to become an accredited landlord through the '**Midland Landlord Accreditation Scheme**'. This scheme is run by PSH in partnership with other Midland authorities and provides a consistent standard for landlords operating in our local authority areas and provides continuing professional development through attendance at regular local landlord forums and through newsletters.
- 3.5 Prospective tenants are encouraged to rent from landlords who are accredited which provide them with a degree of reassurance in an otherwise unpredictable and generally unlicensed market. PSH also provide a **Deposit Guarantee** for landlords to enable people in housing need to enter the private rented sector market for the first time where they are unable to raise the deposit. Subject to satisfying the eligibility criteria the scheme provides assistance in identifying suitable properties, ensures the property is affordable, sets up the tenancy and provides a guarantee certificate to the landlord. Tenancy support is also provided throughout the life of the guarantee to ensure that the tenancy does not fail. The tenant is encouraged to save during this period to enable them to replace the guarantee with a cash deposit when PSH withdraw the guarantee. The no. of deposit guarantees issued since its launch in 2010/11 has risen year on year and it is estimated that the increase this year will be at least threefold. This reflects the growing demand for accommodation in this sector by people with limited financial means struggling to find a deposit to access the sector.
- 3.6 All landlords taking deposits from their tenants under an Assured Shorthold Tenancy agreement must protect the deposit in a government authorised **Deposit Protection Scheme** within 30 days of receiving it from the tenant. The tenant must be provided with key information relating to the deposit, where it is, the amount and how to resolve any disputes at the end of the tenancy. If the

deposit is not protected then the landlord cannot serve a 'notice to quit' requiring possession. In these cases the tenant would have to take their own action in the County Court to recover the unprotected rent deposit. However the Court in these cases has the discretion to award up to three times the original deposit sum to the tenant.

- 3.7 During the life of the tenancy the landlord should ensure that the property is repaired and maintained to comply with the requirements of the **Housing Health and Safety Rating System (HHSRS)** which is enforced by the local housing authority i.e. PSH.

This system replaces the old 'fitness' standard which was based on structural condition and provision of facilities only. The HHSRS introduces an assessment of risk to the health and safety of occupants of the property as a result of hazards and defects found in the property. If defects are identified through either reactive or proactive inspection work then a range of actions is available dependent upon the severity of the hazard identified in accordance with the current **Enforcement Policy**. In general the actions available to PSH are:

- informal advice
- hazard awareness notice
- improvement notice
- prohibition notice

If an immediate danger to life was identified then powers are available for the work to be undertaken by the local housing authority i.e. PSH, to remove the danger and recover the cost from the landlord.

- 3.8 It should be noted that in some circumstances where assured shorthold tenants complain about the condition of their homes that landlords will in return serve notice to quit upon the tenant. This is known commonly as a '**Retaliatory Eviction**', and whilst widely discouraged by local housing authorities cannot be prevented provided possession is obtained legally. PSH will ensure that the property is satisfactorily repaired to the appropriate standard even if the originating tenant is no longer in occupation. The good working relationship with the Homelessness Team enables cases to be examined. Where possible preventative work can commence early to identify solutions to the potential homeless situation that could arise as a result of the landlords action.
- 3.9 Landlords must also ensure that gas appliances are maintained and that tenants are provided with a current **Gas Safety Certificate**. Failure to do this is enforced by the Health and Safety Executive (HSE). The HSE can also take action where works are carried out by uncertified persons.
- 3.10 In addition to this landlords must also provide an **Energy Performance Certificate** to give tenants an idea of how expensive it may be to heat the property. Enforcement action would be taken by the local authority Trading Standard departments.
- 3.11 In addition to the above there are also certain types of property known as '**Houses in Multiple Occupation**' (**HMO**) that are subject to more stringent regulation and licensing arrangements.

An HMO is a building that is either a single dwelling or a flat where one or more

separate households share facilities such as a kitchen, toilet and bathroom. HMOs that are over 3 storeys and are occupied by 5 or more persons comprising two separate households must be licensed by the local housing authority i.e. PSH.

The licensing scheme requires an application to be made for the property by a 'fit and proper person' for a fee. If a licence is granted then conditions are applied in relation to the provision of adequate sanitary facilities, means of escape from fire and suitable management arrangements. Where the property falls below the required standards then enforcement action (generally the same as those available under the HHSRS) may be taken. However where the standard of management of a HMO falls below what is required then if it is unlikely to improve the local authority may take over its management.

3.12 There has been much national discussion about the use of **Selective Licensing** and the Local Authority may designate all or part of its area as being subject to selective licensing subject to agreement by Central Government. The national guidance states that consideration would be given to granting designation for the area if:

- it is likely to improve the decreasing / low demand for housing in the area, or
- if the area is experiencing a significant and persistent problem with anti social behaviour, private landlords are failing to take action to combat the problem and that by taking action the problem will be reduced or solved.

3.13 Finally, HMOs that do not need to be licenced to operate are required to comply with the **Management Regulations** to ensure adequate facilities and arrangements for safety are provided. These regulations are enforced by the local housing authority, i.e. PSH.

3.14 Dudley Council is also signed up to **Homestamp** which is a partnership consortium with an interest in private sector housing comprising of Local Authorities, the Private Rented Sector, West Midlands Police and West Midlands Fire Service. The aim of the consortium is to:

- encourage the supply of good quality private rented homes
- provide and facilitate information and training for landlords
- consider and respond to regional and national issues affecting the private rented sector
- encourage joint working between all interested parties

Documents have been produced by Homestamp for owners, managers, letting agents and contractors with the necessary information which will help them provided their tenants with safe and high quality accommodation, and reduce the need for intervention from local authorities. In November 2012 the Consortium won the Public Service – Not for Profit Award in the national Landlord and Letting Awards (the letting industry 'Oscars').

Local Regulation Activity

4.

In Dudley 7,976 households live in the private rented sector (6.2%) and the **Housing Needs Survey 2011** indicated that only 80.4% of private sector tenants reported that their homes were adequate for their needs. Most reported that improvements/repairs were required to make their homes more adequate.

- 4.1 The **Private Sector Stock Condition Survey 2007** indicated that 29% of private rented housing failed to meet minimum housing standards the worst areas being Central Dudley and Halesowen. Inadequate housing can result in poor health and where conditions fall below standards of decency their potential effect on health is clear. However other pressures such as accommodation that no longer meets a changed household requirement, for example households who become overcrowded can also trigger health related problems.
- 4.2 No detailed information is currently available in relation to local landlord portfolios in Dudley. However, local knowledge of the sector indicates that its operation resembles the national picture outlined in the key findings of the National Landlords Survey 2010.
- 4.3 Appendix 1 provides detail of some of the regulation activities carried out by PSH in private rented sector since 2008. This clearly shows a marked increase in activity in over 75% of the areas of activity, notably:
- illegal evictions
 - poor housing condition complaints
 - pre enforcement action
 - formal enforcement action
 - prosecutions
 - deposit guarantee
 - Housing advice
- Much of this increase can be attributed to the fact that the profile of this sector has been highlighted in recent years both nationally and locally which has raised the expectations of tenants. This coupled with the availability of relevant information on the Councils website, worldwide web, clearer routes for reporting problems and a responsive service delivery may have also contributed to this increase.
- 4.4 Close working relationships and partnerships are continually being developed to share information and to enable complex problems in the sector to be resolved which involve multi agency approaches. The PSH team was also refocused in 2011 to provide a comprehensive service of enforcement coupled with coordinated tenant and landlord support to achieve sustainable solutions in this sector. Work in this area also underpins the preventative homelessness agenda.
- 4.5 There are clear links between Health and Housing and housing information relating to the private rented sector has been factored into the recently emerging **Joint Strategic Needs Assessment, 'All About Dudley', Homelessness Strategy and Housing Strategy 2013**. There are some clear themes emerging from these documents in terms of future focused work that relate to:
- raising housing and management standards in the private rented sector, and
 - encouraging more landlords to enter the market to provide more homes to meet housing need
- 4.6 Finally, work has been in progress to develop a comprehensive **Private Sector Housing Assistance Policy** with the intention of bringing together all current initiatives and schemes operating in the borough for this sector. In addition to this there are also proposals to introduce a **Charging Policy** to recover the cost of enforcement action in the sector. It is suggested that this, coupled with the

proactive education and support programmes currently operating, may reduce the need for formal intervention by the authority. It is proposed to take this document to the **Housing Working Group** for full consideration in due course.

Finance

5. There are no financial implications arising from this report.

Law

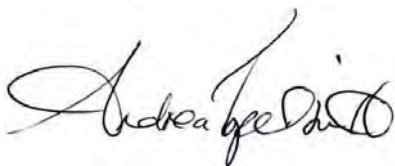
6. The Councils constitution contains details of the relevant legislation and provides for the appropriate delegation to officers to enable them to carry out their statutory duties within the private rented sector.

Equality Impact

7. There are no equality implication arising from this report.

Recommendation

8. It is recommended that:
- The contents of the report are noted
 - Further reports be brought back to the committee to discuss elements of the service in greater details if required
 - The Private Sector Housing Assistance Policy including the Charging Policy be considered by the Housing Working Group



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List of Background Papers

Rugg Review 2008
Dealing with Rogue Landlords: DCLG
National Private Landlords Survey 2010 DCLG
Housing Health and Safety Rating System
Approval steps for additional and selective licensing designations in England DCLG
DMBC Private Sector Stock Condition Survey 2007
DMBC Housing Needs Survey 2011
DMBC Draft Joint Strategic Needs Assessment; All About Dudley
DMBC Draft Housing Strategy 2013 – 2015

Appendix 1

Subject area		2008/09	2009/10	2010/11	2011/12	2012/13 (est.)
Complaints received against private landlords relating to:						
(i) illegal evictions		9	8	9	18	38
(ii) harassment		18	19	18	5	12
(iii) poor housing conditions	No. of complaints	85	74	52	269	320
	Cat 1 hazards id	186	171	99	136	208
	Cat 2 hazards id	258	271	172	103	48
(iv) unlicensed houses in multiple occupation		4	1	9	8	18
No. of cases against private landlord where:						
(i) pre enforcement action taken		215	170	124	281	370
(ii) pre enforcement action resolved issue		193	135	113	241	310
(iii) notice served to remedy poor housing conditions		n/a	n/a	n/a	19	30
(iv) prosecutions taken		0	0	1	5	4
(v) prosecution success		0	0	1	5	4
No. of deposit guarantees issued		n/a	n/a	8	25	116
No. of housing advice enquiries		36	124	135	165	238

Anti-terrorism, Crime and Security Act 2001
Anti-Social Behaviour Act 2003
Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (England) Regulations 2003
Assured Tenancies and Agricultural Occupancies (Forms) (Amendment) (Wales) Regulations 2003
Building Regulations Part P: Guidance Booklet
Consumer Protection Act 1987
Control of Asbestos Regulations 2006 (SI no.2739)
Control of Pollution Act 1974
Council Tax (Additional Provisions for Discount Disregards) Order 1992
Council Tax (Chargeable Dwellings) Order 1992
Council Tax (Discount Disregards) Order 1992
Council Tax (Exempt Dwellings) Order 1992
Council Tax (Liability for Owners) (Amendment) Regulations 1993
Council Tax (Liability for Owners) Regulations 1992
Crime and Security Act 2010
Data Protection Act 1998
Defective Premises Act 1972
Disability Discrimination Act 2005
Electrical Equipment (Safety) Regulations 1994 (SI no.3260)
Employment Rights Act 1986
Energy Performance of Buildings (Certificates and Inspections) Regulations 2007
Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment No.2) Regulations 2008
Energy Performance of Buildings (Certificates and Inspections) (England and Wales) (Amendment) Regulations 2010
Environmental Permitting (England and Wales) Regulations 2010
Equality Act 2010
Equality Act 2006
Estate Agents Act 1979
Finance Act 2003 (Part 4)
Firearms Act 1968
Firearms (Amendment) Act 1988
Firearms (Amendment) Act 1997
Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
Freedom of Information Act 2000
Furniture and Furnishings (Fire) (Safety) Regulations 1988 (SI no.1324)
Gas Safety (Installation and Use) Regulations 1998 (SI No. 2451)
Health and Safety at Work etc Act 1974
Health and Safety (Consultation with Employees) Regulations 1996
Health and Safety (Training for Employment) Regulations 1990
Home Information Pack (Suspension) Order 2010
Houses in Multiple Occupation (Management) (England) Regulations 2009
Houses in Multiple Occupation (Management) (Wales) Regulations 2009
Housing (Interim Management Orders)(Prescribed Circumstances) Order 2006
Housing (Scotland) Act 2010
Housing (Scotland) Act 2006
Housing (Scotland) Act 1988
Housing Act 1985 Part 10
Housing Act 1988

Housing Act 1996
 Housing Act 2004
 Housing Act 2004 (Commencement No 5 and Transitional Provisions and Savings) (England) Order 2006
 Housing Act 2004 (Commencement No 5 and Transitional Provisions and Savings) (Wales) Order 2006
 Housing Act 2004 (Commencement No. 3 and Transitional Provisions and Savings) (Wales) Order 2006
 Housing Benefit (Local Housing Allowance and Information Sharing) Amendment Regulations 2007
 Housing Benefit (Local Housing Allowance, Miscellaneous and Consequential) Amendment Regulations 2007
 Housing Benefit (State Pension Credit)(Local Housing Allowance and Information Sharing) Amendment Regulations 2007
 Housing Benefit (Amendment) Regulations 2009
 Housing Health and Safety Rating System (England) Regulations 2005 (SI no.3208)
 Housing Health and Safety Rating System (Wales) Regulations 2006
 Housing (Tenancy Deposits) (Prescribed Information) Order 2007
 Housing (Tenancy Deposit) (Specified Interest Rate) Order 2007
 Housing (Tenancy Deposit) Order 2007
 Income & Corporation Taxes Act 1988
 Income Tax (Trading and other Income) Act 2005
 Inheritance Tax Act 1984
 Land Registration Act 2002
 Land Registration Rules 2003 (Si no.1417)
 Landlord and Tenant Act 1985 (as amended)
 Landlord and Tenant Act 1987
 Landlord Registration Act 2002
 Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007
 Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (Wales) Regulations 2007
 Licensing and Management of Houses in Mutiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
 Licensing and Management of Houses in Mutiple Occupation and Other Houses (Miscellaneous Provisions) (Wales) Regulations 2006
 Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006
 Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (Wales) Order 2006
 Local Government Act 2003
 Local Government Finance Act 1992
 Management of Health and Safety at Work (Amendment) Regulations 2006
 Management of Health and Safety at Work Regulations 1999 (as amended)
 Management of Houses in Multiple Occupation (England) Regulations 2006
 Management of Houses in Multiple Occupation (Wales) Regulations 2006
 Manufacture and Storage of Explosives Regulations 2005
 Money Laundering Regulations 2003
 Money Laundering Regulations 2007
 Mortgage Repossessions (Protection of Tenants etc) Act 2010
 Occupiers Liability Act 1957
 Plugs and Sockets etc. (Safety) Regulations 1994
 Prevention of Damage by Pests Act 1949
 Proceeds of Crime Act 2002

Protection From Eviction Act 1977
 Public Health Act 1961
 Public Health Act 1936
 Race Relations Act 1976
 Regulatory Reform (Assured Periodic Tenancies) (Rent Increases) Order 2003
 Regulatory Reform (Fire Safety) Order 2005 (Si no.1541)
 Regulatory Reform (Housing Assistance) (England and Wales) Order 2002
 Rent Act 1977
 Rent Acts (Maximum Fair Rent) Order 1999
 Rent (Scotland) Act 1984
 Rent Officer (Housing Benefit Functions) Amendment Order 2007
 Rent Repayment Orders (Supplementary Provisions) (England) Regulations 2007
 Rent Repayment Orders (Supplementary Provisions) (Wales) Regulations 2008
 Residential Property Tribunal Procedures and Fees (England) Regulations) 2011
 Residential Property Tribunal Procedure (England) Regulations 2006
 Residential Property Tribunal (Fees) (England) Regulations 2006
 Residential Property Tribunal Procedure (Wales) Regulations 2006
 Residential Property Tribunal (Fees) (Wales) Regulations 2006
 Safety Representatives and Safety Committees Regulations 1977
 Selective Licensing of Houses (Specified Exemptions) (England) Order 2006
 Selective Licensing of Houses (Specified Exemptions) (Wales) Order 2006
 Selective Licensing of Houses (Additional Conditions) (Wales) Order 2006
 Serious Organised Crime and Police Act 2005
 Sewerage (Scotland) Act 1968
 Sex Discrimination Act 1975
 Taxation of Chargeable Gains Act 1992
 Terrorism Act 2000
 Town and Country Planning (Use Classes) (Amendment) (England) Order 2010
 Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010
 Town and Country Planning (Use Classes) (Amendment) (Wales) Order 2002
 Town and Country Planning (Use Classes) (Amendment) (England) Order 2006
 Town and Country Planning (Use Classes) (Amendment) (England) Order 2005
 Town and Country Planning (Use Classes) Order 1987
 Town and Country Planning (Scotland) Act 1997
 Town and Country Planning Act 1990
 Unfair Terms in Consumer Contracts Regulations 1994
 Unfair Terms in Consumer Contracts Regulations 1999
 Unfair Terms in Consumer Contracts (Amendment) Regulations 2001
 Water Industry Act 1991
 Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011
 Water Environment (Controlled Activities) (Scotland) Regulations 2011
 Welfare Reform Act 2007
 Welfare Reform Act 2007 (Commencement no 4 and Savings and Transitional Provisions) Order 2007
 Work at Height (Amendment) Regulations 2007
 Work at Height Regulations 2005 (as amended)

Environment Scrutiny Committee - 18th March 2013

Report of the Director of Adult, Community and Housing Services

Housing Fraud

Purpose of Report

1. The purpose of this report is to update Members on the work being under taken in Housing Services on the prevention and detection of Housing Fraud.

Background

2. The demand for Council housing in Dudley is much higher than its availability. It is imperative therefore that we prevent it being obtained and or used fraudulently.
3. Dudley's 'Housing – Counter Fraud Policy' was approved in February 2012. During the last twelve months officers have been working on the practical implementation of this policy.
4. The Audit Commission published their annual 'protecting the public purse report' in December 2012, this report continues to report Housing tenancy fraud as the single largest category of fraud loss in local government, by value. The Audit Commission has revised its estimates from previous reports and suggests that between 2% and 4% of social housing in England is being used for tenancy fraud, this equates to nearly 98,000 social homes.
5. The Prevention of Social Housing Fraud Bill was introduced as a Private Members Bill by Richard Harrington MP, in July 2012. The Bill features measures to make tenancy fraud a criminal offence. The new powers to be introduced under the Bill to prosecute for offences associated with social housing fraud will lie with Local Authorities. Housing associations and local authorities will be expected to work in partnership to jointly investigate and prosecute cases. The Bill can be viewed at www.publications.parliament.uk/pa/bills/cbill/2012-2013/0082/20130082.pdf
6. Dudley is a member of the West Midlands Best Use of Stock (WMBUS) partnership. There are a number of sub-groups that report to a Project Board which include a regional Tenancy Fraud Forum (TFF) which has been established to share good practice on tackling tenancy fraud.

Prevention and Detection of Tenancy Fraud

7. The most cost effective way to tackle tenancy fraud is to prevent it from taking place. The new on-line housing application form, that will be available for use from early next Financial year, includes within it new questions and declarations aimed at preventing fraudulent applications. A revised document checklist for officers and the introduction of photo identification at application stage will also

specifically improve our safeguards against identity fraud on housing applications.

8. We are mindful that those who wish to commit Fraud will not do so neatly within Local Authority boundaries. We remain committed to supporting and contributing to the regional TFF and have signed up to the WMBUS Fraud Offer (attached at Appendix A) which demonstrates the commitment in the West Midlands to tackling tenancy fraud. The West Midlands is the first region in England to agree such an offer.
9. The regional TFF has collated good practice from across the region and developed in partnership with the Chartered Institute of Housing a good practice guide on how to prevent and detect Social Housing. We are already following much of the good practice outlined in this document within Housing Services but will use it as a guide for further improvements in the next twelve months.
10. Whilst prevention of Fraud is an important part of our Counter Fraud Policy we are mindful there is also a need to improve our detection rate of Fraud already in our system. Approval was given in October 2012 to create and appoint to a new post of Tenancy Fraud Officer. The recruitment process for this post was completed in December 2012 and the person appointed is expected to be in post by April 2013. This Officer will lead and co-ordinate our approach to fraud prevention and detection.
11. At the end of January 2013 the Department for Communities and Local Government announced that £9.5m of funding was being made available for 2013/14 and 2014/15 to tackle tenancy fraud and invited Local Authorities to bid for a share of this funding. Dudley is bidding for resources that would be used to recruit a second Tenancy Fraud Officer to work in partnership with Housing Associations who hold stock in the Borough to assist them with investigations of fraud within their stock, as well as adding capacity for investigations in our own stock and on housing applications. Resources are also being sought to purchase software to assist with case management of fraud investigations which are often very complex in nature. A regional bid is also being made for funding under the umbrella of WMBUS, if successful resources from this bid will support the development of data warehouse software hosted by Birmingham City Council to which we subscribe our data for the purpose of identifying data matches that indicate the existence of fraud. The regional bid is also seeking resources to recruit officers to audit compliance with the regional fraud offer and to capacity build partner's skills and knowledge on prevention and detection of fraud. If successful the funding for these bids will be released in April 2013.
12. Regular articles to raise awareness on what housing fraud is and what Housing Services are doing to tackle it have been included in our tenant magazine "Home Affairs". A number of staff briefings were held with all housing management staff during the summer of 2012 to raise awareness on how housing fraud may be committed, why its important for us to tackle it and what to do when you spot it.
13. We continue to promote the Council's Fraud Hotline (01384 814242 / hotline@dudley.gov.uk) to encourage members of the public to report any incidents of housing fraud to us for investigation. Since April 2012 there have been seventeen reports made to this hotline which have been investigated in Housing Services. One such report has resulted in the tenant surrendering possession of the property and handing back their keys following investigation. A further 4 cases are being monitored, including one report of sub-letting. We plan

to do further promotion of the hotline in April when the Fraud Officer is in post. This will include the promotion of the hotline on the side of our repair vans when they are out on the estate.

14. We continue to work closely with Audit Services to develop local data matching exercises that will alert us to the existence of fraud within our stock. Work on a number of data sets will be developed further once the Tenancy Fraud Officer is in post.

Performance Monitoring

15. In 2011/12 we reported to the audit commission the detection of 43 cases of tenancy fraud. In previous years we had returned a figure of zero as our recording methods did not allow us to identify from the reasons tenancies had ended which ones had resulted from the detection of housing fraud.
16. In 2012/13 (April – December) 74 tenancy fraud investigations have been concluded resulting in:
 - 44 cases closed as no fraud
 - 30 cases fraud detected

Of the 30 Case where fraud has been detected, in 15 cases the tenants surrendered the keys after investigation, 14 have resulted in Legal Notice been issued on the tenant or the tenant themselves giving notice to end their tenancy. 1 case has resulted in court action to end the tenancy.

For the same period 13 Housing Applications have had fraud investigations concluded resulting in:

- 6 cases closed as no fraud
- 7 cases fraud detected

Of the 7 cases where the fraud has been detected 6 had their existing applications cancelled and 1 applicant was excluded from making an application.

During the same period 1 Right to Buy application has been denied as a result of a fraud investigation.

Finance

17. It is intended that the Housing Counter Fraud Policy will protect the Council from financial loss that may result from someone obtaining or using a Council property fraudulently.
18. It was previously reported to this committee that the National Fraud Authority had estimated based on national trends the cost of Housing Fraud to Dudley may be somewhere between £3,100,000 and £5,200,000.
19. An indicative figure of £18,000 has been used nationally to calculate the cost of tenancy fraud. This is considered to be the average cost of housing homeless families in temporary accommodation. The Audit Commission has also suggested another way to calculate the value of unlawfully occupied properties is to calculate their replacement building costs and have suggested the use of an

indicative figure of £150,000 per unit of accommodation.

20. If the above costs are applied to the number of tenancy fraud detections during the financial year we can estimate the cost of tenancy fraud to us is somewhere between 540,000 and 5,040,000. Locally there are no significant costs for temporary accommodation as we make use of our own stock for this purpose. The real financial cost to the Authority of tenancy fraud is therefore some what subjective and can be legitimately described either as significant or insignificant. However the real cost is the impact, that those who obtain or use social housing fraudulently, have by blocking access to those who are in genuine need of social housing on our waiting lists.

Law

33. The Housing Act 1985 gives grounds for possession.

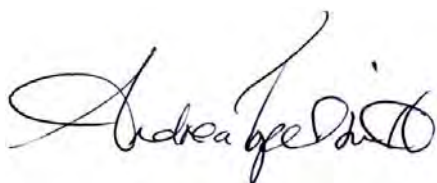
The Fraud Act 2006, Theft Act 1968 & 1978 and Proceeds of Crime Act provide authority for action to be taken on acts of Fraud.

Equality Impact

34. An equality impact assessment was completed during the development of the Housing Counter-Fraud Policy and mitigating actions agreed to reduce the risk of any adverse impact that the introduction of photo identification and additional identify checks may have on vulnerable persons and specific faith groups.

Recommendation

35. It is recommended that Members note the progress made to date on the prevention and detection of Housing Fraud.



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List of Background Papers

Housing Counter Fraud Policy
Protecting the Public Purse 2012
WMBUS Fraud Offer

DIRECTORATE OF Adult, Community and Housing Services
Date: February 2012

Housing – Counter Fraud Policy

Implementation date: February 2012

Aims and objectives

The demand for Council housing in Dudley is much higher than its availability. It is imperative therefore that we have robust policy and procedures in place to prevent it being obtained and / or used fraudulently.

The policy aims to counter housing fraud which might occur as a result of:

Fraudulent applications for housing (new or transfer)
Fraudulent claims of homelessness
Payment for mutual exchanges
Unauthorised sub-letting of the whole or part of the property
Non occupation by tenant as their principal home
Wrongly claimed succession
Unauthorised assignment
Key selling
Targeting vulnerable tenants to use their tenancy for unlawful and / or criminal activity (also known as cuckooing)
Fraudulent Right to Buy claims and or avoidance of discount re-payments
Non-disclosure of relevant changes to household make up pertinent to a housing application or a tenancy
Identity fraud

Housing Services will counter fraud by the use taking the following actions:

- Applicants and tenants will be required to provide signed declarations at key stages in housing processes as determined necessary by the author of the policy or procedure as a first measure to counter fraud. This will also be used as an opportunity to communicate to the person making the declaration that should they knowingly or recklessly make false statements which lead or were intended to lead to unfair advantage or gain that action will be taken against them for housing fraud.
- Identity checks will be undertaken on applicants and existing tenants at appropriate times as determined by procedure guidance and or best practice. This will include but will not be limited to checks at point of

application, at the start of the tenancy, during routine or targeted home checks, during appointments to deal with significant tenancy management issues or as part of any counter fraud investigation.

- Applicants and tenants will be required to provide an up to date full face passport sized photo to be held on their housing records for the purpose of conducting identity checks.
- Applicants and tenants will be required to provide National Insurance numbers as part of the household data we will collect, hold and regularly update for the purpose of countering housing fraud.
- A document checklist will be produced and updated on documents that applicants and tenants may be requested to produce to prove their identity. Officers checking identity will be trained and provided with reference tools / web sites to be able to confidently identify false documents.
- Where there is reasonable suspicion that an individual is trying to or has committed a housing fraud, housing services will make use of economic activity and other data tracing tools to collect evidence to detect and take appropriate action to stop the fraud.
- Housing Services will subscribe to and be an active member of the national fraud initiative and will undertake other local data matching exercises as it sees fit to identify housing fraud in Dudley.
- Key fob exchanges and other practical measures to identify or exclude unauthorised occupants from our properties will be undertaken where considered appropriate.
- Good practice on investigation techniques into suspected fraud will be collated and shared regularly with officers involved in counter fraud activities. Housing Services will also work in partnership with other social housing providers to share information, data and good practice where they are willing to do so to prevent and detect housing fraud.
- Housing Services will promote the confidential reporting of fraud by residents/public

Where investigations identify that a housing fraud has been committed housing services will take appropriate and proportionate action which may include the following:

- Application for possession of any property obtained, retained or used fraudulently.

- Recovery of any monies obtained as a result of the fraud e.g. rent paid tenants to who the property is unlawfully sub-let
- Exclusion or, deferral from, or demotion on the waiting list for accommodation
- Report to the Police for criminal investigations and action
- Offer advice and assistance to other victims of the fraud, for example a person who has unknowingly paid rent to a tenant who has unlawfully sub-let their Council tenancy to them.

To deter those who may be considering committing a housing fraud Housing Services will publicise details of any actions we will take to counter fraud, details of cases where action has been taken and encourage members of the public to report fraud through all appropriate media and communication channels.

Legislation

The Housing Act 1985 gives grounds for possession.

The Fraud Act 2006, Theft Act 1968 & 1978 and Proceeds of Crime Act provide authority for action to be taken on acts of Fraud

Brief description of the procedure

This policy should be read in conjunction with the following policy & procedure documents:

- Lettings Policy
- Home Checks
- Abandoned Properties
- Right to Buy
- Lodgers & Sub-letting
- Succession
- Mutual Exchanges
- Sole to joint tenancy
- Joint to sole tenancy
- Illegal Occupancy
- Tenancy sign up
- Tenant name change
- Gas Access
- Name Change

- Decants
- New tenancy visits
- Sign up
- Temporary accommodation

All procedures are regularly reviewed to reduce the risk of fraud occurring.

Performance Monitoring

The following management information will be recorded and reported on:

- The number of investigations conducted on housing fraud
- The number of housing frauds identified and action taken to stop the fraud from continuing

Resources

The counter fraud work will be carried out within existing staffing resources.

There is a small financial cost associated with the use of some credit and data checking traces but this is not expected to exceed £1000 in anyone year and can be met from existing resources. There will also be some costs associated with communications but again it is anticipated these will be met from existing resources.

There is a risk the policy could increase costs associated with void management and legal enforcement action.

Consultation

Dudley Federation Tenants Residents Association and the 5 Area Housing Panel have been consulted on the approaches Housing Services intend to take during 2011 in the development of this Policy.

Impact Assessments

The introduction of the Counter Fraud Policy will have positive impacts on tenants who are vulnerable and who maybe more susceptible to the risks of 'cuckooing' where individuals are targeted to use their tenancy for unlawful or criminal activity.

The use of Photo Identification may be objected to by some people on religious or belief grounds. Research indicates that this approach has been adopted by other social landlords without any such objections but mitigating actions put in place to address this issue.

Mitigating actions will also be developed to minimise any risk to persons who are the subject of cuckooing or other harassment and are unable to produce identification because it has being with-held from them.

Staff who undertake fraud investigations will be provided with appropriate training on how to conduct such investigations and will also have passed the Corporate equality and diversity training.

Review

This policy will be reviewed as the need arises or no later than 3 years from its implementation date

Policy Owner :	Nigel Collumbell
Date of approval :	28 th February 2012 (Decision Sheet Reference DACHs/005/2012)

Protecting the public purse 2012

Fighting fraud against local government

November 2012



The Audit Commission is a public corporation set up in 1983 to protect the public purse.

We appoint auditors to councils, NHS bodies (excluding NHS foundation trusts), local police bodies and other local public services in England, and oversee their work.

We also help public bodies manage the financial challenges they face by providing authoritative, unbiased, evidence-based analysis and advice.

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Summary and recommendations

Summary

Protecting the Public Purse 2012 (PPP 2012) focuses on the continuing progress by local government to protect taxpayers by fighting fraud. We have written it for the benefit of elected members, non-executives and senior officers who are responsible for governance. In addition, government departments, other national organisations and counter-fraud specialists, will find this report relevant.

Fraud is a significant problem. It affects everyone in the UK. In 2012, the National Fraud Authority (NFA) estimated that:

- each year public, private and third sector organisations, as well as individuals, lose over £73 billion to fraud;
- fraud costs every adult in the country about £1,460 a year; and
- fraud against public sector organisations costs £20.3 billion, with fraud against local government costing more than £2.2 billion a year.

Local government bodies are targeting their investigative resources more efficiently and effectively. Our latest survey of fraud against local government bodies shows that in 2011/12:

- they detected more than 124,000 cases of fraud, with a value of £179 million;
- the number and value of detected fraud cases are broadly similar to the figures we reported last year, with only a 2 to 3 per cent variation;
- housing and council tax benefit frauds accounted for more than half of the total fraud losses detected, to a value of £117 million;
- they detected nearly £21 million of false claims for council tax discounts; and
- they detected 187 cases of procurement fraud amounting to more than £8 million.

124,000
fraud cases,
valued at
£179 million

Tenancy fraud accounts for the largest losses from fraud in local government. Our research shows that:

- an estimated 98,000 social housing homes in England are subject to housing tenancy fraud;
- councils recovered nearly 1,800 homes from tenancy fraudsters last year, with a total replacement value of nearly £264 million;
- most detected tenancy fraud (69 per cent) is in London, even though the capital accounts for only 27 per cent of all council housing in England; but
- councils outside London increased tenancy fraud detection by more than a quarter, reflecting their increasing commitment to tackle this fraud.

98,000
homes subject
to housing
tenancy fraud

Councils' counter-fraud professionals recognise that more needs to be done to tackle emerging fraud risks, including those relating to:

- business rates;
- Social Fund payments and Local Welfare Assistance;
- Right to Buy discounts;
- Local Council Tax Support;
- schools; and
- grants.

Recommendations

Local government bodies should:

- use our checklist for those charged with governance (Appendix 2) to review their counter-fraud arrangements;
- review their counter-fraud strategies in the context of *Fighting Fraud Locally*, the first national strategy for local government fraud, produced by the NFA;
- apply the NFA's good practice guidance and tools, and the examples of good practice highlighted in *PPP 2012*, to match the success of the best in the sector in tackling fraud;
- actively pursue potential frauds identified through their participation in the National Fraud Initiative (NFI);
- refresh local strategies to tackle tenancy fraud, to reflect the findings of our research into the nature of such fraud;
- engage effectively with the Tenancy Fraud Forum to access good practice in tackling tenancy fraud;
- use the tool produced by the London Public Sector Counter Fraud Partnership to help prevent and detect procurement fraud;
- maintain robust staff recruitment and internal controls to guard against internal fraud; and
- remain vigilant to mandate fraud (formerly known as change of bank details fraud).

Councils in particular should:

- maintain a capability to investigate non-housing benefit related fraud, proportionate to the risk;
- ensure they have effective and proportionate defences against emerging fraud risks, including business rates, Social Fund and Local Welfare Assistance, Right to Buy discounts, Local Council Tax Support, schools and grants;
- explore partnership and funding arrangements in two-tier areas to incentivise district councils to investigate council tax discount fraud;
- share investigative resources with other social housing providers to tackle tenancy fraud; and
- assess the potential benefits and cost savings of greater joint working with other councils.

The Department for Communities and Local Government should:

- consider incentivising social housing providers to tackle tenancy fraud;
- collect and publish information on properties recovered by housing associations from tenancy fraudsters;
- ensure the new business rate regulations from April 2013 support councils seeking to tackle fraud, including evasion of business rates;
- extend existing investigatory powers relating to benefit fraud to all other frauds in local government; and
- consider what arrangements will need to be put in place to collect and publish data on detected fraud against local public bodies, after the closure of the Audit Commission.

Chapter 1: Introduction

This chapter provides an overview of the focus and purpose of *PPP 2012*. It also summarises recent national counter-fraud initiatives.

1 Fraud is a crime that affects all citizens, as taxpayers and service users.ⁱ The NFA estimates that fraud costs the UK £73 billion each year (Ref. 1), or £1,460 for every adult living in the UK.

2 The NFA estimates that fraud in local government amounts to at least £2.2 billion. Every pound lost through fraud cannot be spent on providing valuable frontline services or reducing the tax burden on the honest majority. Local government bodiesⁱⁱ need strong counter-fraud cultures and effective counter-fraud policies and procedures. They should also compare their arrangements against current best practice to ensure their counter-fraud work continues to be effective, including working in partnership to maximise savings.

3 The Audit Commission plays an important role in protecting the public purse against fraud. Our appointed auditors consider the fraud prevention and detection arrangements put in place by audited bodies such as councils, NHS trusts, police bodies, and fire and rescue authorities, as part of their current audit arrangements. Each year we publish the results of our annual survey of detected fraud in local government in this series of reports called *Protecting the Public Purse (PPP)*.

4 The Commission's annual fraud survey is the only comprehensive source of evidence about the levels of detected fraud against local government bodies. These organisations can use the survey results published in *PPP* to benchmark their own performance in detecting fraud, and to identify strengths, trends and areas for improvement.

i We define fraud as an intentional false representation, including failure to declare information or abuse of position that is carried out to make gain, cause loss or expose another to the risk of loss. We include cases where management-
authorised action has been taken, including, but not limited to, disciplinary action, civil action or criminal prosecution.

ii The organisations described as 'local government bodies' in this report are organisations covered by Schedule 2 of the Audit Commission Act 1998 and include, among others, local councils, national parks, police and fire and rescue authorities.

£1,460
a year is lost by
every adult
living in the UK
due to fraud

5 The Audit Commission remains committed to working with local government bodies and other key stakeholders to maximise the benefits that they can get from this unique data source, to help strengthen the counter-fraud defences of local government.

6 The Audit Commission also runs the NFI data matching exercise. This compares a variety of data sources, for example, registered deaths and benefit payments, and identifies inconsistencies or circumstances that might suggest fraud or error. Since 1996, we have run the NFI data matching exercise every two years to help detect and prevent fraud. Since then, the NFI has identified a total of £812 million of fraud, error and overpayment in England, including £229 million in the latest data matching exercise (Ref. 2).

National developments in counter-fraud

7 In April 2012, the NFA published *Fighting Fraud Locally* (Ref. 3), the first strategy developed by local government to tackle fraud against local government. The report focused on non-benefit fraud areas – in particular, housing tenancy, council tax discounts, procurement, grants, employees, schools and personal budgets. *PPP 2012* highlights councils' performance in tackling each of these fraud risks.

8 *Fighting Fraud Locally* contains practical recommendations to encourage public bodies to adopt successful counter-fraud measures. The strategy highlights good practice examples that have been developed by some councils, against which others can test their own arrangements. In particular, *Fighting Fraud Locally* calls on local government to adopt a strategic response to fraud that:

- acknowledges the threat of fraud and the potential for savings that exists;
- prevents fraud by improving fraud controls and developing a counter-fraud culture; and
- pursues fraudsters with robust enforcement, to deter others.

9 The NFA has developed a number of supporting tools to help councils deliver their counter-fraud strategies. These include a checklist for councils and a toolkit that estimates the likely loss to fraud in individual councils. Local government bodies should review their counter-fraud arrangements in the context of the strategy, complete the checklist and use the toolkit.

10 Councils face significant changes in the services they provide. They include:

- the ability to retain half of the local business rates they collect, from April 2013;ⁱ
- an increase in the discount available under Right to Buy legislation, from April 2012;
- the responsibility for administering Social Fund payments in the form of Local Welfare Assistance, from April 2013;
- the function of administering Local Council Tax Support, from April 2013;
- the creation of a Single Fraud Investigation Service (SFIS), from April 2013; and
- greater autonomy for schools.

11 These changes represent the most significant policy developments affecting counter-fraud in recent years, including new organisations, staff roles and funding arrangements. They present potential significant challenges to, but also opportunities for, local government bodies in the way they tackle fraud.

12 This report addresses these issues. The next chapter describes the scale and value of detected fraud against local government bodies.

ⁱ Currently, councils collected business rates on behalf of central government. This income is centrally pooled.

Chapter 2: Detected fraud against councils and related bodies

The results of our survey of detected fraud committed against local government bodies.

13 The Audit Commission has collected information on detected fraud in local government for over 20 years. We have tracked how improvements in local government bodies' capacity and capability to investigate fraud have led to increased detection.

14 More than 480 public sector organisations responded to our 2011/12 survey, which is a 100 per cent response rate. The survey results, therefore, provide a comprehensive picture of detected fraud across local government over the last year. These results:

- map the extent of different types of detected frauds against local government;
- provide information about emerging and changing fraud risks; and
- help identify good practice.

100%
of councils
responded to
our survey



With a response rate of 100%, our Audit Commission survey provides an unrivalled overview of fraud in local government

15 Table 1 shows that the number of cases of detected fraud continues to rise across most fraud types. This reflects the increasing commitment of local government bodies to tackle fraud.

16 It also shows that the value of total fraud detected in 2011/12 was £179 million, which is slightly down on the previous year. This may reflect the impact of improved fraud detection arrangements, as the earlier a fraud is detected, the smaller the financial loss.

Table 1: **Main findings of our survey of detected fraud in local government**

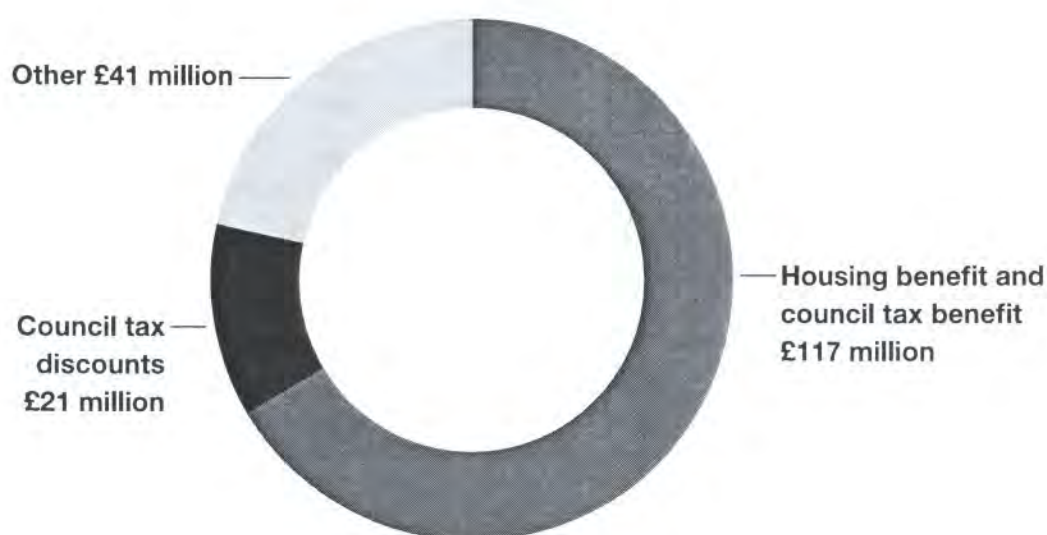
A comparison of 2011/12 and 2010/11 survey results

	2011/12	2010/11	Change %
Total fraud			
Value	£179,000,000	£185,000,000	-3
Cases	124,000	121,000	+2
Average	£1,444	£1,529	-6
Housing benefit/council tax benefit			
Value	£117,000,000	£110,000,000	+6
Cases	54,000	59,000	-8
Average	£2,167	£1,864	+16
Council tax discounts			
Value	£21,000,000	£22,000,000	-5
Cases	61,000	56,000	+9
Average	£344	£393	-12
Other frauds			
Value	£41,000,000	£53,000,000	-23
Cases	9,000	5,600	+61
Average	£4,556	£9,464	-52

Source: Audit Commission

17 Figure 1 shows the breakdown of detected fraud by category, excluding housing tenancy fraud. More than half of the £179 million value of detected fraud related to housing and council tax benefits.

Figure 1: **Detected fraud in 2011/12 by category**



Source: Audit Commission

18 Figure 1 excludes detected housing tenancy fraud.ⁱ When the losses from this fraud are added, non-benefit fraud accounts for nearly half the total value of frauds detected by local government bodies in 2011/12.ⁱⁱ

19 Councils also recovered nearly 1,800 homes with a total replacement value of nearly £264 million. This remains broadly unchanged from 2010/11.

**Nearly 1,800
homes worth
£264 million
recovered**

20 Table 2 highlights the six largest frauds in the 'Other' group in Figure 1, which between them account for nearly £24 million of the £41 million in this category.

i The value of this type of fraud cannot be measured directly, but estimated in different ways. Chapter 3 gives more information about housing tenancy fraud.

ii Using NFA fraud loss measurement approach, housing tenancy fraud detection totalled nearly £32 million in 2011/12.

Table 2: **Other frauds against councils**

The six largest fraud types within the other frauds category for 2011/12 and 2010/11

Fraud type	Cases 2011/12	Value 2011/12	Cases 2010/11	Value 2010/11	% change in value
Procurement	187	£8.1m	145	£14.6m	-45
Abuse of position ⁱ	297	£5.6m	395	£4.3m	+30
Payroll, pensions, expenses	640	£3.5m	556	£5.6m	-38
Disabled parking concessions (blue badges)	4,809	£2.4m	3,007	£1.5m	+60
False insurance claims	132	£2.1m	149	£3.7m	-43
Social care	122	£2.2m	102	£2.2m	0
TOTAL	6,187	£23.9m	4354	£31.9m	-25

Source: Audit Commission

21 In 2011/12, the value of procurement fraud shows the largest decrease over the previous year, but it still totalled £8.1 million.ⁱⁱ The notable increase in the number of detected blue badge frauds may reflect the greater priority afforded to this issue by some councils.

22 Research by the Local Authority Investigating Officers Group found that, on average, the number of counter-fraud specialist in councils has reduced by over 18 per cent in 2011/12 (Ref. 4). Against this background, the overall increase in fraud detection cases we report this year is even more commendable. This suggests that councils are targeting their investigative resources more efficiently and effectively.

**Councils
have targeted
resources more
effectively
with greater
efficiency**

23 The value of detected fraud reflects a combination of factors. These include:

- the level of fraud locally;
- the resources applied to identify and investigate such fraud;
- the successful detection by local government bodies; and
- improved methods of recording fraud.

ⁱ This fraud includes the misappropriation or distribution of funds by someone taking advantage of their position for financial gain, either for themselves or someone else. This type of fraud could involve, for example, diverting funds for personal use, or fraudulently securing a job for a friend or relative.

ⁱⁱ The value of these frauds is likely to fluctuate over time, as individual procurement frauds can produce very high losses.



Despite decreasing the most since last year, procurement fraud still cost £8.1 million

24 Most local government bodies have improved fraud detection since 2008/09, when this series of *PPP* began. They are also classifying more incidents correctly as fraud rather than error. This explains why detected fraud cases continue to rise. Appendix 1 contains more detail about detected fraud by region.

Chapter 3: Housing tenancy fraud

Housing tenancy is the single largest category of fraud loss in local government, by value. Some councils have made good progress in recovering properties lost to such fraud, to the benefit of honest tenants and taxpayers. But many have yet to take action.

25 Housing tenancy fraud arises when people occupy social housing unlawfully,ⁱ and can include:

- subletting a property for profit to people not allowed to live there under the conditions of the tenancy;
- providing false information in a housing application to gain a tenancy;
- wrongful tenancy assignment and succession where the property is no longer occupied by the original tenant; and
- failing to use a property as the principal home, abandoning the property, or selling the key to a third party.

26 There are nearly four million social housing properties in England, with an asset value of more than £180 billion (Ref. 5). Housing associations manage over half of this stock. In 2012, there were about two million families waiting for a council house (Ref. 6).

The scale of housing tenancy fraud

27 Housing is an essential commodity and demand far exceeds supply. In 2012, the NFA estimated that housing tenancy fraud costs the public purse at least £900 million a year – more than three times the level of housing benefit fraud (Ref. 1).

28 In *PPP 2009*, we conservatively estimated that at least 50,000 social homes were subject to some form of tenancy fraud (Ref. 7). This was based on an assumed 2.5 per cent fraud level in London, and 1 per cent in the rest of England. This cautiously reflected the views of many housing experts who considered tenancy fraud levels could be in excess of 5 per cent in London, but lower elsewhere in

More than three times as much money a year is lost from the public purse through housing tenancy fraud rather than housing benefit fraud

ⁱ This chapter has a separate section on frauds arising from tenants' right to buy social housing.

the country. In *PPP 2009*, we noted that further research was needed to quantify more precisely the level of such fraud.

29 For *PPP 2012*, we have undertaken additional research in London and updated our previous cautious estimate of the scale of tenancy fraud. We analysed the counter-fraud activities carried out by a sample of social housing providers in London (councils, arms length management organisations (ALMOs) and housing associations) – the first such analysis in England.

30 This found a typical level of tenancy fraud of between 4 and 6 per cent in London. Housing experts have suggested that non-London tenancy fraud levels are likely to be at least half that found in the capital. Taking the lower 4 per cent figure, we estimate that nearly 98,000 social homes in England could be subject to some form of tenancy fraud. In Appendix 3, we outline the basis on which we draw those conclusions. We also provide an analysis of the impact that different percentage levels of tenancy fraud would have nationally. Further research to quantify more precisely the extent of tenancy fraud outside London would be beneficial to the sector.

The cost of tenancy fraud

31 There are many different ways of calculating the cost of tenancy fraud. The main direct cost comes from the need to house homeless families in temporary accommodation. In *PPP 2010*, we estimated that this costs an average of £18,000 for each familyⁱ (Ref. 8).

32 This figure was used by the NFA to estimate that the annual cost of such fraud in March 2012 was £900 million, based on 50,000 properties subject to tenancy fraud.

33 Although this represents a cost to the public purse, it does not accurately reflect the savings available to individual councils who tackle such fraud. Central government benefit payments will offset much (though not all) of these temporary accommodation costs.

34 In addition to temporary accommodation costs, the value of tenancy fraud should also reflect:

- annual safety, repair, adaptation and maintenance costs;
- social housing administration and housing management costs, and
- any long-term borrowing costs incurred to provide social housing.

ⁱ We recognise that not all those families, for various reasons, would qualify for permanent social housing.

35 Another way of calculating the value of unlawfully occupied properties is to calculate their replacement building cost. We have previously estimated the cost of one new unit of social housing at around £150,000 (Ref. 8).

Case study 1

Housing tenancy fraud

An individual failed to disclose a change of circumstances to her application for social housing to a rural council. The applicant initially declared that she and her two children were living with her mother. As a result, she was awarded additional housing points. These extra points moved her up the waiting list and she was allocated a home with a housing association. However, the council subsequently discovered she had stopped living with her mother and had taken up a privately rented property under her maiden name. Had she disclosed this, the council would have removed the additional points and not awarded her a property at that time. She was found guilty under the Fraud Act 2006 and fined £450 and costs of £250. She also gave up her tenancy.

36 The social value to communities of tackling tenancy fraud should not be overlooked. Families in temporary accommodation can often lead more transient lives, unable to put down permanent roots in their communities. They can struggle to create a stable educational environment for their children. In addition, tenancy fraud has the potential to limit mobility within the current housing stock. All this has implications for the social cohesion of communities and for the health and wellbeing of those most directly affected.

37 In 2009, the Commission concluded that 'well targeted spending on housing stock can yield financial benefits', including health and crime cost savings (Ref. 9). Any assessment of the financial value of recovering social housing should recognise the long-term social and financial benefits to communities.

38 We have previously reported (Ref. 10) that housing associations, which account for more than half of all social housing stock, believe they have no financial incentives to tackle tenancy fraud. They recognise the moral argument for taking action against tenancy fraudsters, but many have indicated that the costs involved in tackling such fraud are a barrier to action. The government should consider incentivising social housing providers to tackle tenancy fraud.

**Tenancy fraud
can damage
community
members'
health and
wellbeing**

39 Independent of which method is used to estimate the cost to the public purse, tackling housing tenancy fraud represents one of the most cost-effective means of making social housing properties available for those who have the greatest need and most legitimate entitlement.

Nature of tenancy fraud

40 In *PPP 2009*, we noted that relatively little is known about the nature of tenancy fraud. A number of myths and misconceptions exist about it, and these have been used by some to justify taking little or no action to tackle it. To help address this, we undertook a detailed analysis of detected tenancy frauds. Two London and three non-London social housing providers took part in the research, providing between them evidence of 215 detected tenancy frauds.

41 This exploratory and small-scale study suggests that the following myths about tenancy fraud can be challenged.

- **Myth 1 – tenancy fraudsters have to be rehoused.** Our research found that, in more than 87 per cent of cases, the social housing provider did not have to rehouse the fraudster.
- **Myth 2 – court action is required to regain control of the property.** In 85 per cent of cases, the fraudster handed back the property keys without court action.
- **Myth 3 – tenancy frauds are quickly identified and last only a few months.** Only 29 per cent of tenancy frauds were detected within the first six months of the fraud, while about the same proportion (28 per cent) took between six and 12 months to be detected. In 43 per cent of cases, the properties were unlawfully occupied for over a year,
- **Myth 4 – tenancy frauds are isolated incidents unconnected with other frauds.** There is evidence of other types of fraud in nearly half (45 per cent) of cases of detected tenancy fraud. Housing benefit fraud was the most common.
- **Myth 5 – specialist fraud investigators are not needed to tackle tenancy fraud.** The social housing providers in this project had used a specialist fraud investigator in 88 per cent of the cases of detected tenancy fraud.

In over 87% of cases, no court action was necessary to reclaim properties affected by tenancy fraud

42 This research also suggests that there may be some differences in the type and frequency of tenancy frauds encountered between London and from outside the capital. In the London organisations we looked at, around two-thirds of tenancy frauds related to subletting for profit. Elsewhere, this was the case in fewer than one in five cases. Outside London, most tenancy frauds related to abandonment and non-occupation of the home as the primary residence. The results from the 2011/12 detected fraud survey support these findings.

43 Further research would be helpful to confirm the full extent of geographical differences in the type of tenancy fraud. If this research confirms our initial findings, it would have significant implications for both the governments' national strategy to tackle tenancy fraud and for the approach that should be adopted locally by social housing providers.

44 In about half of all cases analysed, detection followed a referral from a housing officer. In a quarter of cases, it was the result of contact from the public. This suggests all social housing providers should do more to increase fraud awareness among staff and the public, and make it easier to report suspected frauds.



A quarter of all detected tenancy frauds arise from an initial public referral

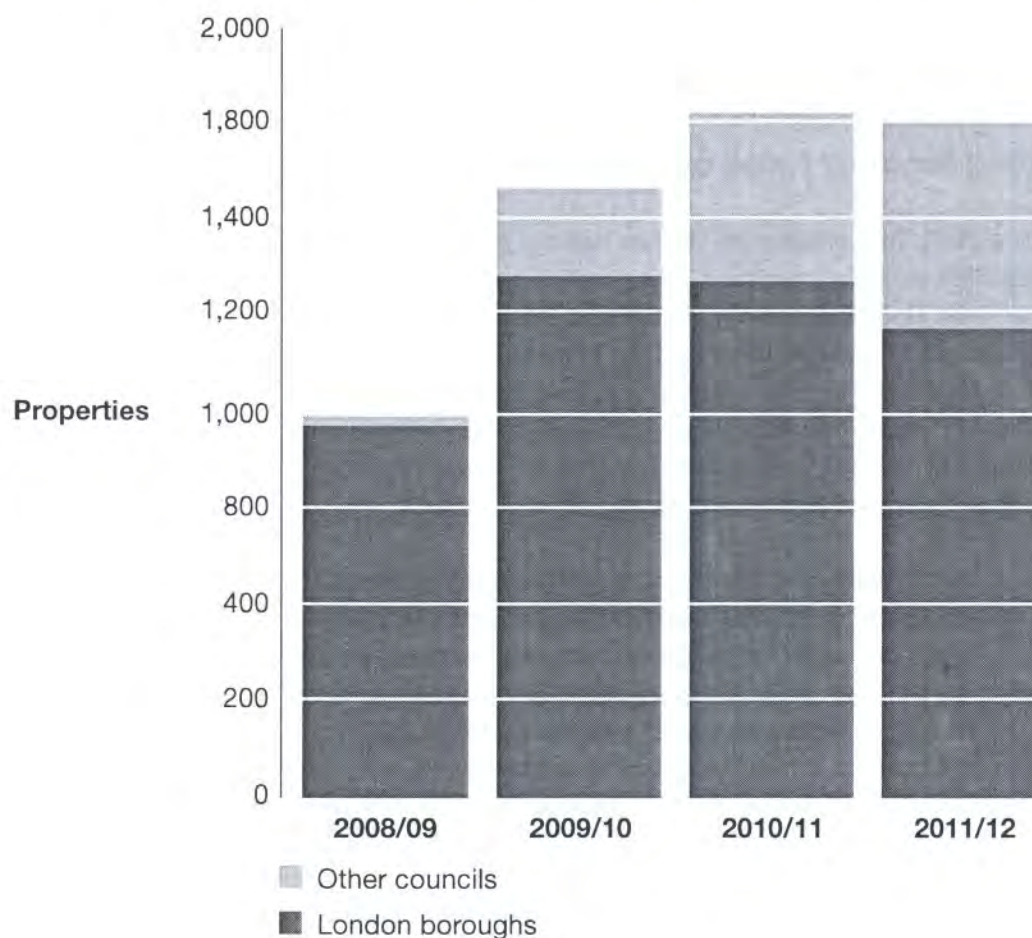
Detected tenancy frauds

45 Since 2008/09, the number of properties recovered from tenancy fraudsters has risen by 82 per cent.ⁱ This reflects the greater attention given to the issue by some councils in recent years. It also demonstrates the impact that qualified fraud investigators, adopting good practice, can have on identification, detection and recovery rates.

46 London boroughs continue to account for a disproportionate number of detected tenancy frauds (Figure 2). In 2011/12, London accounted for more than two-thirds (69 per cent) of all properties recovered, although the capital has only just over a quarter (27 per cent) of all council housing in England.

ⁱ Data are only available for councils and ALMOs. There are no data on the extent of detected tenancy fraud in housing associations.

Figure 2: **Properties recovered from tenancy fraudsters between 2008/09 and 2011/12**



Source: Audit Commission

47 London's greater share of detected tenancy fraud partly reflects the fact that many of its councils have for some time had a dedicated investigative capacity. They have used this increasingly to work in partnership with housing associations to help these bodies better tackle tenancy fraud in their areas.

48 Figure 2 shows that councils outside of London account for an increasing share of total detected fraud. They have increased the number of properties recovered by more than 26 per cent since 2010/11. This provides the first indication of the positive impact on tenancy fraud detection rates made by the Making Best Use of Stock (MBUS) team, created in April 2011 by the Department for Communities and Local Government.

49 But over half of non-London councils with housing stock did not recover a single property in 2011/12, indicating clear room for improvement. A full regional breakdown of detected tenancy fraud is in Table 6 in Appendix 1. This shows significant regional variation in the number of tenancy frauds detected by councils.

In 2011/12, not one property was recovered in over half of non-London councils with housing stock

Detecting tenancy fraud outside London

50 Before 2010, Wolverhampton Homes had not recovered any properties from tenancy fraudsters. Responding to *PPP* reports, Wolverhampton Homes encouraged staff and the public to report suspected cases of tenancy fraud and put in place investigative arrangements. Since May 2010, it has recovered 93 properties from fraudsters. Wolverhampton Homes attributes this success to using specialist fraud investigators, in partnership with housing officers, at key stages in every enquiry.

51 Prior to 2011, Stoke-on-Trent City Council had not recovered any properties subject to tenancy fraud, although it had recovered properties as part of the normal process of housing management. In March 2011, partly in response to the issues raised in previous *PPP* reports, the Council started a project to specifically tackle tenancy fraud. Within 12 months, it had recovered 54 properties from tenancy fraudsters, through coordinated activity between the Council's fraud investigators and housing officers.

52 District councils can also do more to tackle tenancy fraud. In 2011/12, they accounted for 26 per cent of the total council housing stock in England, but for less than 6 per cent of the total number of properties recovered. Of 92 district councils with housing stock, 66 did not recover a single property. Table 7 in Appendix 1 shows the properties recovered by council type as a percentage of their total housing stock.

53 However, some district councils have demonstrated what can be done, even with limited investigative resources. Before 2011, Crawley Borough Council had never reported recovering a home from tenancy fraudsters. It was a widely held view in the Council that tenancy fraud was not a problem. But the housing department supported an initiative by the benefits fraud investigation team to tackle it.

54 In 2011/12, Crawley recovered 23 properties. The Council attributes much of this success to close working between specialist benefit fraud investigators and housing officers. The Council found that enquiries into alleged benefit frauds also uncovered tenancy fraud.

55 District councils should consider how to work better in partnership, sharing investigative resources, to enhance their response to tenancy fraud.

False identities enabling tenancy fraud

56 Tenancy fraudsters are increasingly using false identities to obtain properties. The London Borough of Southwark, acting on NFI data matches involving Operation Amberhillⁱ intelligence, has recovered 14 properties from tenancy fraudsters in less than a year. As well as recovering the properties, the Council has taken successful court action against a number of the perpetrators. A further 18 properties are currently under investigation, where there is evidence that fraudulent documents have been used to gain tenancies.

57 Fraudulent documentation is recognised as one of the principal enablers of fraud. In 2012, the Home Office issued guidance to help staff identify false documentation (Ref. 11).

Case study 2

Housing tenancy fraud

Using a false driving licence and immigration status, a fraudster claimed that she was homeless, and the council provided her with a home. However, a subsequent council investigation established the use of the fraudulent documentation to obtain the property. In addition, the tenant had fraudulently claimed eight years of housing benefit. The total cost to the public purse was £144,000. The fraudster was found guilty of various offences and sentenced to 12 months imprisonment, suspended for 18 months, with a three-month curfew order. The council regained the property.

Building an effective response to tenancy fraud

58 In 2011/12, there were a number of national and regional initiatives to tackle tenancy fraud.

59 In April 2012, for example, the Tenancy Fraud Forum (TFF) was established (Ref. 12). The TFF is a free-to-join independent group of housing providers committed to tackling tenancy fraud, supported

ⁱ Operation Amberhill is a Metropolitan Police-led initiative to tackle organised groups that are mass producing false identity data.

by stakeholders including MBUS, NFA and the Audit Commission. All social housing providers should engage effectively with the TFF to access good practice in tackling tenancy fraud.

60 Other initiatives reflected the government's aim to improve national and local effectiveness in fighting fraud. The Government issued a consultation on the criminalisation of tenancy fraud and later indicated its support for a private member's bill, Prevention of Social Housing Fraud. This legislation would, if enacted, create offences and make other provisions relating to housing tenancy fraud.ⁱ



The Prevention of Social Housing Fraud Bill 2012/13 will make the subletting of social homes a criminal offence

61 In *PPP 2011*, we reported that the government funded the establishment of the MBUS team within the Chartered Institute of Housing. MBUS offers free specialist advice to help registered providers of social housing tackle tenancy fraud. In 2011, it collated and disseminated good practice among social housing providers, encouraging and supporting local and national counter-fraud initiatives. We have already noted the positive impact MBUS is having on non-London councils' tenancy fraud detection rates.

ⁱ In July 2012, the government published its response to that consultation, noting that the private member's bill 'takes forward key elements of our consultation proposals'.

Good practice

62 Despite recent progress in, and growing commitment to, fighting tenancy fraud, many providers have yet to take action. Financial barriers remain. Recurring themes common to those social housing providers who have been successful in tackling tenancy fraud include:

- a willingness to acknowledge the problem;
- senior management and political support;
- using specialist fraud investigators;
- a multidisciplinary approach, in particular collaboration between investigators and housing officers;
- use of legal support at appropriate stages of the process, including civil and criminal court action;
- encouraging public referrals of suspected tenancy fraud;
- cleansing tenancy data prior to data matching;
- strengthened fraud awareness training for housing officers; and
- partnership working with other housing providers.

63 *Fighting Fraud Locally* (Ref. 3) has established that the first step in effectively tackling fraud is to acknowledge both the scale of the problem and the impact of the response. Publishing information on the number of council properties recovered from tenancy fraudsters helps in the fight against tenancy fraud. But the picture is not complete.

64 Good data is vital to fighting fraud. The Commission is currently the principal source of authoritative evidence on the extent of fraud in local government, but there are no data on the extent of detected tenancy fraud against housing associations. The government should consider what arrangements will need to be put in place to collect and publish data on detected fraud against local public bodies, after the Audit Commission closes. The government should also collect and publish information on properties recovered by housing associations from tenancy fraudsters.

Chapter 4: Current fraud risks

This chapter highlights trends in the main fraud risks in local government.

65 Previous *PPP* reports have commented in detail on the frauds that pose significant risks to local government bodies. This chapter provides the latest information about these risks, relating to council tax discounts, personal budgets, procurement, housing and council tax benefits, internal (staff) fraud and mandate fraud.

Council tax discount fraud

66 In 2012/13, councils in England will raise about £26 billion from council tax. The NFA estimates that councils lose £131 million every year to council tax fraud, mainly by people who fraudulently claim available discounts and exemptions. These include the single person discount (SPD) of 25 per cent for sole occupiers, which can rise to 100 per cent when the occupier is a full-time student.ⁱ

67 Since we first raised this issue in 2009, our annual fraud surveys have shown that councils increased the number of cases detected every year. Not only are councils addressing our original concerns about SPD fraud, they are now starting to tackle other related issues such as student awards and empty property exemptions.

68 In 2011/12, 70 per cent of metropolitan authorities, unitary councils and London boroughs detected council tax discount fraud. However, fewer than half of district councils reported detecting such fraud. This suggests that two-tier areas have a particular problem in tackling fraudulently claimed council tax discounts.

69 In *PPP 2010*, we reported that many district councils had little financial incentive to take action. They administer and collect council tax, but the bulk of the money collected goes to county councils and other precepting bodies, such as police authorities. As a result, district councils incur all the preventative and investigative costs, but receive only a fraction of the financial savings from recovered council tax.

ⁱ To qualify for a single person discount, residents must be 18 or over and be the only member of a household. However, they can also apply for this discount if anyone else living at this address falls into certain categories that allow them not to be counted as 'other occupiers'.

70 However, some district and county councils have entered partnership arrangements that incentivise district councils to take action. In one county, for example, three of the 10 district councils undertook a joint initiative to tackle council tax discount fraud. This initiative also included the the precepting police authority. For a relatively small cost of £35,000, nearly 1,500 frauds were identified with a value of over £0.5 million.

71 District and county councils in two-tier areas should explore partnership and funding arrangements to incentivise district councils to investigate council tax discount fraud.

Case study 3

Council tax discount fraud

Following recommendations made in the Audit Commission's *PPP* reports, a council undertook a data matching exercise specifically to tackle SPD fraud. It provided a credit reference agency with 25,661 records of people claiming SPD. Of these, 3,711 matches had strong evidence of dual or multiple-occupancy.

Adopting a phased approach, the council initially sent letters to the council tax payers concerned. Most then voluntarily confirmed they were not eligible. This allowed counter-fraud specialists to focus on high risk cases. Overall, the council estimated that at least 4 per cent of all its SPD claims were fraudulent.

In total, the exercise produced additional income of over £300,000 for the council.

Personal budgets (direct payments) fraud

72 In 2011/12, the average value of each case of detected social care fraud, including personal budgets, was £18,000. This is more than eight times the average value of each detected benefit fraud (see Table 1) and compares to £11,000 in 2009/10 and £21,500 in 2010/11.

73 Personal budgets aim to increase the independence and quality of life of people who need social care. Councils can assign personal budgets to adults in need of social care and their carers in various ways, including by direct payments. Social care clients may manage the budget, as can independent care providers, a family member, a friend, the council, or a mixture of these.

74 In 2012, one estimate placed the number of people receiving personal budgets in 2011/12 at over 430,000 – a rise of 38 per cent since the previous year. The number of personal budgets paid to carers rose by 15 per cent to nearly 52,000. The total spend on personal budgets rose by 57 per cent since 2010/11 to over £17.5 billion (Ref. 13).

75 The sums involved in individual personal budgets can be significant. Fraudsters are becoming increasingly aware that, by exploiting personal budgets, there are opportunities for criminal financial gain. Fraud risks include:

- a person falsely claiming that they need care – the risk of this type of fraud is not new, but the access to funds through direct payments, rather than a traditional care package, is likely to be more attractive to potential fraudsters;
- carers using the direct payments they manage on behalf of people receiving care for personal gain;
- failing to notify councils when someone dies and continuing to receive direct payments on their behalf; and
- submitting duplicate applications to multiple councils.

76 As we have previously reported, social care fraud arising from personal budgets is not easy to detect or prove. But it is a growing risk. Councils must balance the need to protect public funds with proportionate measures that do not reduce the choice and control that personal budgets aim to bring.

Case study 4

Direct payments fraud

A couple supplied false records to show how direct payments had been spent. The couple declared they paid wages to a care worker after she left their employment, and to another care worker who had never worked for them. The fraud was uncovered when information supplied to HM Revenues and Customs by the council did not reconcile with the tax information supplied by one of the two care workers. Over a seven-year period, the fraud cost the council almost £40,000. The husband, who made the claim, was found guilty of 26 false accounting offences and sentenced to 12 months imprisonment suspended for 18 months and a six-month curfew order. His wife received a 12-month conditional discharge.

Procurement fraud

77 The NFA estimates that councils lose about £890 million each year through procurement fraud (Ref. 1). This is the second highest loss to fraud in local government.

78 Individually and in total, procurement fraud can involve significant financial loss. In 2011/12, local government bodies reported to us that they detected frauds worth £8.1 million (Table 2) – an average of £43,300 per case.ⁱ

£43,300 is the average value per case of procurement fraud

79 Fraud can occur at any point in procurement and contracting. The key areas of external fraudulent activity during the procurement stage include:

- collusion between staff and bidders to award contracts and specify favourable terms and conditions;
- collusion between bidders to agree that they will not bid competitively for a particular contract; and
- bidders failing to tender in accordance with contract specifications, and then submitting false claims for extra costs under the contract.

80 Once a local government body has awarded a contract, fraud can occur when contractors:

- provide inferior goods and services;
- intentionally override minimum statutory pay and health and safety regulations for financial gain;
- present false invoices; and/or
- provide inflated performance information to attract greater payments than are due.

81 The London Public Sector Counter Fraud Partnership, a pan-London group that shares good practice in counter-fraud, has produced a guide on mitigating procurement fraud risks (Ref. 14). Local government bodies should use this tool to help prevent and detect procurement fraud.

Housing and council tax benefit fraud

82 Over the past 20 years, councils have developed tried and tested measures to counter housing benefit and council tax benefit fraud. The increasing expertise of counter-fraud investigators in councils has resulted in higher levels of detected fraud.

ⁱ Large annual variations in levels of detected procurement fraud can be caused by one or two large value cases.

83 In 2011/12, housing benefit and council tax benefit fraud totalled £117 million. This is the single largest amount of detected fraud in local government. It has received most investigative resources and investment. The average value of detected housing benefit and council tax benefit fraud is just over £2,000. This area of fraud detection is currently subject to proposed major restructuring, considered in more detail later in this report.

£117m
was detected in
housing benefit
and council tax
benefits fraud
in 2011/12

Case study 5

Housing benefit and council tax benefit fraud

Two pensioners, aged 82 and 74, pleaded guilty to a housing benefit and council tax benefit fraud that lasted for over seven years. They defrauded taxpayers of £38,866. Council investigators, following a data matching exercise, discovered the pair had been working as school cleaners while claiming benefits. At court, both pensioners pleaded guilty to fraud and were each fined £150. The council is recovering the money.

Internal fraud

84 In all organisations, there is a risk that staff may commit fraud. But our detected fraud survey results show that the proportion of all detected frauds committed by local government staff has been consistently low since 2009/10 (Table 3). In 2011/12, there were 1,459 cases (1.2 per cent of the total cases) with a value of £15.5 million. This represents 8.7 per cent of the total value of detected fraud.

Table 3: **The value and number of internal fraud cases committed by staff in local government bodies from 2009/10 to 2011/12**

Financial year	Internal cases (as a % of total cases)	Value of internal fraud (as a % of total value)
2009/10	1,333 (1.1)	£6.6m (4.9)
2010/11	1,581 (1.3)	£19.5m (10)
2011/12	1,459 (1.2)	£15.5m (8.7)

Source: Audit Commission

85 The low number of internal cases reflects the fundamental honesty of the vast majority of local government employees. But the average loss from internal fraud is about eight times higher than from external fraud (£10,619 and £1,315 respectively). As well as financial loss, internal fraud also damages the reputation of local government bodies. They should therefore maintain robust staff recruitment and internal controls to guard against such fraud. *Slipping Through the Net*, a guide, has been developed to support the *Fighting Fraud Locally* agenda, and to assist public bodies to strengthen their staff vetting arrangements (Ref. 15).



Local government bodies should remain vigilant to mandate fraud

Mandate fraud (formerly known as change of bank details)

86 In *PPP 2011*, we reported on fraudsters targeting councils and other public organisations to redirect payments intended for legitimate creditors, such as large construction companies. Fraudsters often gather details about creditors from information that local government bodies publish on their websites. This is a high-value, high-risk fraud, where just one failure to follow prevention procedures can lead to a substantial loss.

Mandate fraud is high-value, high-risk

87 In our 2011/12 survey, ten organisations detected mandate fraud with a total value of more than £4.6 million. Regular warnings from the NAFN Data and Intelligence Serviceⁱ continue to raise awareness among local government bodies, which are increasingly successful at preventing such fraud. In 2012, the Metropolitan Police issued a similar warning (Ref. 16). Local government bodies should remain vigilant to mandate fraud.

ⁱ Formerly known as the National Anti-Fraud Network. NAFN is a UK-wide body established by local authorities to help all member organisations share investigative information.

Chapter 5: Emerging fraud risks

This chapter covers new and emerging fraud risks that local government bodies are facing, and the steps they need to take to address these risks.

Business rates fraud

88 Business rates (formerly defined as national non-domestic rates) raise about £21 billion a year for distribution across local government (Ref. 17). This represents a significant proportion of total council income.

89 Business rates fraud includes:

- falsely claiming mandatory or discretionary rate relief or empty property exemption;
- failure to declare occupancy of a property;
- falsely using insolvency status with the intent to evade rate payment; and
- not disclosing relevant information – for example, about the size of the company, to gain rate relief.

90 In recent years, councils have reported significant increases in applications for relief and incentive schemes for business rates – in particular charitable relief. Such arrangements may be legal, but fraudsters can exploit them. The Charity Commission has issued guidance to prevent abuse of charitable status (Ref. 18).ⁱ Councils can improve their corporate capability to fight fraud by using this guidance.

91 There is also emerging evidence that fraudsters are starting to exploit business rates collection arrangements. For example, some businesses declare bankruptcy when councils attempt to recover business rates.

ⁱ Business rates are due on properties that remain unoccupied after three months. However, charities occupying such commercial properties qualify for 80 per cent mandatory tax relief and a further 20 per cent discretionary relief, provided they use the property wholly or mainly for charitable purposes.

92 There is currently no credible estimate of the level of business rates fraud. The number of business rates frauds currently detected is low. In 2011/12, only 13 councils reported both the number of cases and values of detected business rates fraud. The average business rates fraud in these councils was nearly £7,300.

93 Councils collect business rates, but the revenue currently goes to central government. Any losses due to business rates fraud do not directly affect councils and so they have little financial incentive to investigate it. As a result, they have paid little attention to this type of fraud, and so few cases have been detected.

94 This will change from April 2013, when councils will keep half of what they collect. But this also means that any losses to business rates fraud – for example, from unlawfully obtained charitable relief – will directly reduce their tax income and the funding available for local services.

95 Councils should ensure that their defence against business rates fraud is proportionate to the risks involved. The government should ensure that the new business rate regulations from April 2013 support councils seeking to tackle fraud, including evasion of business rates.

Councils should defend against the risk of business rate fraud in a proportionate manner

Right to Buy fraud

96 The Right to Buy discount introduced in the 1980 Housing Act has enabled some two million households to purchase their council home. As the value of the discount declined in real terms, the number of Right to Buy purchases has reduced from over 160,000 per year in the early 1980s to fewer than 4,000 in 2011 (Ref. 19).

97 Right to Buy fraud occurs when someone provides false information on application – fake documentation, for example. It can also occur when someone occupying a property unlawfully applies for a discount.

98 The number of detected Right to Buy frauds, though relatively small, has risen in recent years. In 2011/12, there were 38 cases with a value of £1.2 million, a rise of 52 per cent since 2008/09. This reflects the greater attention given by councils to all forms of property fraud.

99 In April 2012, the government increased the Right to Buy discount in England up to maximum of £75,000. Housing providers tell us they have received a significant increase in applications to buy council homes since then.

100 Although the vast majority of such applications are genuine, the increased discount is likely to make the Right to Buy scheme more attractive to fraudsters. Social housing providers should ensure their Right to Buy fraud defences can respond to this increased risk.

Case study 6

Right to Buy fraud

A husband and wife bought a council property worth £125,000 under Right to Buy legislation, with a discount of £38,000. The council was later alerted to a potential breach of the Right to Buy agreement. The subsequent investigation established that the couple had both used fake identities to buy the property. At court, the couple were found guilty of obtaining property by deception and other related offences. The wife received a sentence of two years' imprisonment and the husband 20 months. The council is using the Proceeds of Crime Act to recover the loss incurred and regain possession of the property.

Social Fund and Local Welfare Assistance

101 The Social Fund provides grants and loans to help people who find themselves in immediate financial difficulty. In 2010/11, over 257,000 awards were made worth £130.1 million (Ref. 20).

102 Jobcentre Plus currently manages the Social Fund, but from April 2013, councils will provide parts of this service through Local Welfare Assistance. The government intends that this change should provide councils with the ability to better meet the specific needs of local communities. However, councils need to ensure they:

- fully assess the risks of providing Local Welfare Assistance ;
- put in place balanced counter-fraud controls; and
- have capacity to investigate suspected frauds and recover debts.

Local Council Tax Support

103 Councils raise and collect council tax to help pay for the services they provide. Currently council tax benefit, which helps lower income families pay council tax, is regulated by central government. From April 2013, the government will replace council tax benefit with Local Council Tax Support. Councils will devise their own Local Council Tax Support schemes, including how much support they give to particular

groups.ⁱ These schemes will affect over 3 million claimants of working age, whose current council tax benefit totals about £2.6 billion per year (Ref. 21). Councils should pay particular attention to minimising the risk of fraud in devising their new Local Council Tax Support arrangements.

Fraud against schools

104 Schools have been the victims of many different types of internal and external fraud in recent years. These can include: fraudulently transferring money out of school accounts; expenses fraud; altering cheques; mandate fraud; procurement fraud; and finance lease fraud.

105 Public Concern at Work, the national charity that supports whistle-blowers reports that 14 per cent of its whistle-blowing cases relate to the education sector (Ref. 22).

106 Alongside PPP 2011 (Ref. 10), we published *Fraud Risks in Schools – Advice for School Governors*. As a result, we have been approached by school governors, head teachers, teachers, bursars and parents, who have raised a significant numbers of suspected fraud concerns with us. These have exceeded the total of all other suspicions of fraud raised with us in the last year. This may in part reflect increased attention as a result of this publication.

107 Academies, foundations and free schools are likely to increase in number in future years. They have more autonomous governance arrangements than schools maintained by local education authorities. Experience shows that fraud risks increase during periods of change. Regardless of the funding arrangements of individual schools, when fraud occurs it is taxpayers' money that is lost. Should a school fail as a result of fraud, the local council still has a duty to provide education.

108 The Audit Commission does not have a role in relation to academies and free schools. However, we encourage all schools to review their whistle-blowing arrangements in accordance with British Standards Institute's Code of Practice (Ref. 23). We also encourage all schools to put in place fraud prevention and detection arrangements proportionate to the risk.

ⁱ The exception to this is those receiving a state pension, who will continue to receive the same level of support they received under Council Tax Benefit.



Frauds committed in or against our education system hit at the heart of the community

Case study 7

Schools fraud

For several years, a school administrator paid herself overtime fraudulently to the value of about £55,000. Sometimes she claimed 200 extra hours worked each month. She also paid her credit card bills through the school accounts and gave money to her partner. The total amount of the fraud was £142,000. In an attempt to conceal the fraud, the fraudster altered records of financial transactions by using vague descriptions and false supporting documents. She even inflated pupil numbers to gain more school income.

The administrator pleaded guilty to fraud and was sentenced to two years imprisonment. The council aims to recover the money through a compensation order, pension claw-back and insurance. The council sacked the headteacher for failing to supervise the school administrator. The headteacher was disqualified by their professional body from holding a school financial management post.

Grants

109 A grant provides non-repayable funds to eligible recipients for a specified purpose. Local government bodies pay out different types of grants to individuals, community groups, voluntary and arm's length organisations. These include grants for housing renovation, adult social care, and arts and sports activities.

110 Grant frauds most commonly include false applications and failure to use the grant for its intended purpose. The NFA estimates that grant fraud in local government costs the public purse £41 million every year (Ref. 1).

111 The risk of grant fraud depends on several factors including the:

- type of grant recipient;
- nature of the grant scheme; and
- purpose of the grant award.

112 In 2011/12, there were 45 grant frauds with a value of £1.8 million, down from 51 cases worth £1.3 million in 2010/11. It is important that local government bodies remain vigilant to this risk.

Case study 8

Grant fraud

A council provided grant funding for a local charity. However, over a four-year period, the two people who ran the charity defrauded taxpayers of almost £48,000, by diverting charity money to personal use. They used false invoices and accounts to cover their tracks. The council provided evidence which led the pair to be charged with conspiracy to defraud. They both pleaded guilty and received a 12-month prison sentence suspended for two years, and a 150-day curfew order. They were also each ordered to pay £1,000 costs, and £6,000 compensation for investigation costs. The amount they stole has been paid back to the council.

Chapter 6: Current developments in the fight against fraud

This chapter outlines changes that will affect counter-fraud work in local government and the importance of a corporate response.

113 Counter-fraud work in local government bodies faces a period of significant change. This presents both risks and opportunities. All local government bodies will need to consider these as they seek to refocus their investigative capacity and prevention arrangements to protect the public purse.

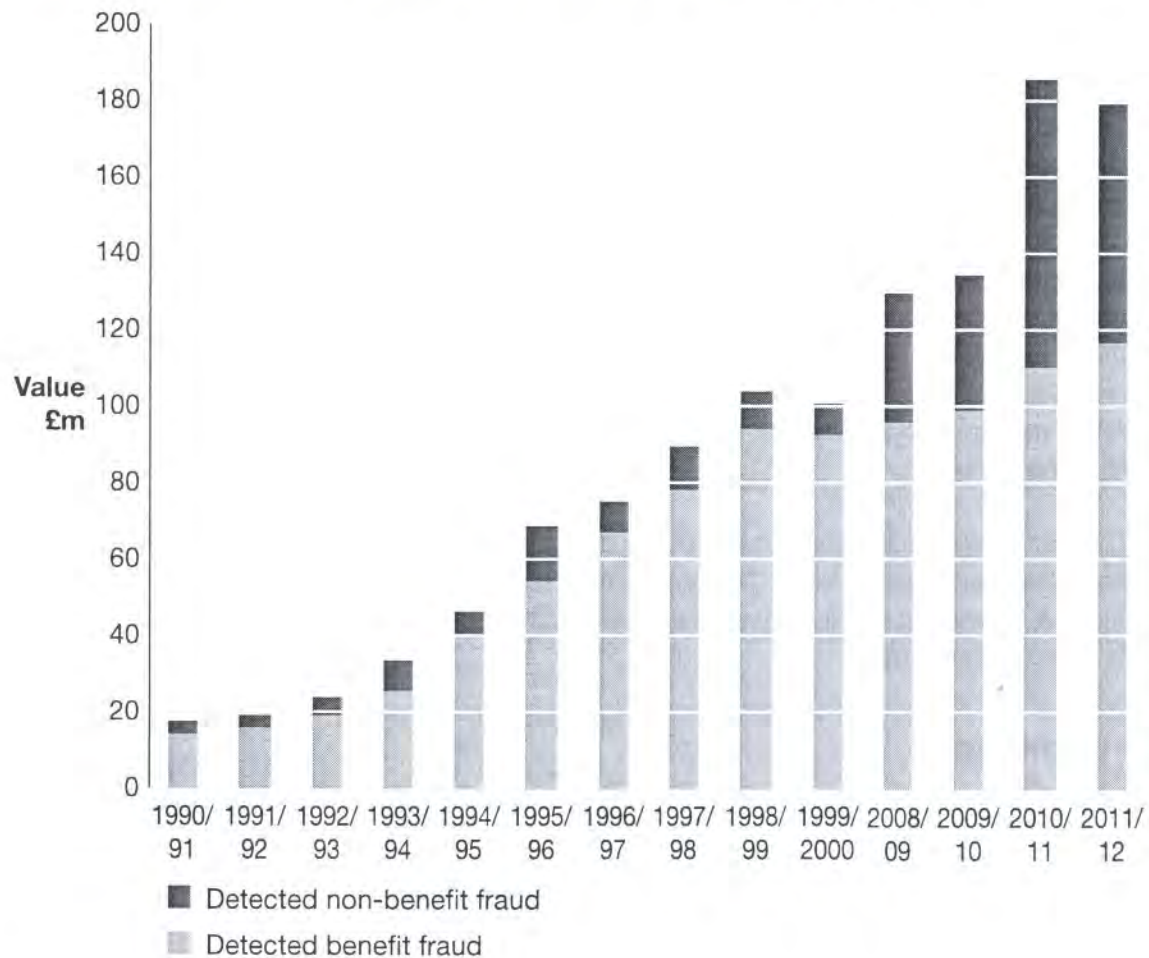
Single Fraud Investigation Service

114 In April 2013, the government will establish a Single Fraud Investigation Service (SFIS) to tackle benefit fraud. This will bring together benefit fraud investigators from across central and local government. Under SFIS, council investigators will still be employed by their local authority, but they will work to SFIS policies and procedures.

115 The government recognises that the transition to SFIS could generate conflicting priorities and have resource implications for councils as they tackle non-benefit fraud in the future. For example, some councils also use housing benefit investigators to investigate other frauds. There is a risk that the introduction of SFIS may affect the ability of these staff to investigate non-housing benefit fraud in their local area.

116 From the mid-1990s, central government invested in enhancing the professional skills of council benefit fraud investigators. This also helped to increase councils' overall capacity to investigate non-benefit related frauds (Figure 3). In 1990/91, when the Audit Commission first started collecting data on detected fraud, around 10 per cent of all detected fraud in local government was non-benefit related. By 2011/12, this had risen to nearly 50 per cent.

Figure 3: **Detected benefit and non-benefit fraud by value (excludes tenancy fraud)**



Source: Audit Commission

117 When the switch to the SFIS is made, it is important that councils maintain their capability to investigate non-housing benefit related fraud, proportionate to the level of risk.

Investigatory powers

118 When investigating benefit fraud, investigators have significant powers to obtain evidence. For example, when suspicion of benefit fraud arises, the law requires banks and utility companies to supply customer details to the investigating officer. The same power does not extend to other types of fraud. In such cases, investigators rely on voluntary disclosure, which is often not forthcoming.

119 For example, one council identified four potential frauds from data matches supplied by the Audit Commission's NFI. These involved potential fraudsters continuing to accept pension payments after the pensioner had died, with an aggregate loss to the taxpayer of over £40,000. The council asked for further information from the banks to support its enquiries. The banks refused. This prevented the council from completing its investigation, prosecuting potential fraudsters and recovering funds.

120 In a time of financial constraint, local government bodies increasingly lack the resources to obtain court orders for this sort of information. Smaller bodies often do not have access to legal advice or the necessary expertise to take this course of action. As a result, some fraudsters may go unpunished and recovering scarce public funds and assets is more difficult.

121 Greater powers to obtain information would help local government bodies in their fight against fraud. The government should extend existing investigatory powers relating to benefit fraud to all other frauds in local government.

Extending existing benefit fraud investigatory powers to other frauds, could significantly help local government fight fraud.

Joint working

122 Joint working potentially offers a way for councils to share resources to tackle fraud. By pooling the professional skills and local knowledge of staff, councils are able to address fraud risks more cost-effectively.

123 One example of joint working involves Tonbridge and Malling Council and Gravesham Council. By combining their investigation teams, both councils saved money on management and administrative costs. They believe this arrangement increases their flexibility to respond to current and emerging fraud risks.

124 The same councils collaborated with Kent County Council to tackle council tax fraud. Using a data matching exercise, the three councils were able to share the costs, which delivered an extra net income of over £300,000.

125 Councils should review the potential benefits and cost savings of greater joint working with other councils.

The importance of a corporate counter-fraud response

126 The risks of fraud and its damaging financial, reputational and operational consequences require a corporate response. Increasingly, councils have established corporate counter-fraud teams, which have had a significant impact.

127 The London Borough of Hillingdon (LBH) maintains a corporate fraud team of 17.5 staff (full-time equivalent). In recent years, the areas of responsibility of the team have broadened from housing benefit/council tax benefit fraud investigations to include other areas of council responsibility such as housing tenancy fraud and disabled parking fraud.

128 The combined impact is significant with LBH reporting over £2.1 million of detected fraud in 2011/12. In addition, a further 28 council properties were recovered from tenancy fraudsters. LBH credit much of this successful action to collaboration between housing officers, investigators and the Council's legal team. LBH also works in partnership with other registered providers of social housing.

129 In 2011/12, the team, in partnership with parking enforcement officers, investigated disabled parking fraud. This resulted in 46 'blue badges' being seized and several cases referred for prosecution.

130 The team also undertakes proactive revenue protection measures. Using its specialist investigative skills and local knowledge, and working in partnership with other departments of LBH, over 10,000 property visits were undertaken to check the status of business rates and council tax properties in relation to empty periods or any changes as a result of building work. Proactive visits are also undertaken to follow up on fraud hotline referrals. Since 2010, LBH has identified and stopped £568,000 of SPD fraudulently claimed, using credit reference data to verify the validity of claims.

131 The Better Governance Forum of the Chartered Institute of Public Finance and Accountancy provides information on the benefits to the public sector of developing a corporate counter-fraud capability (Ref. 24).

Next steps

In August 2010, the government announced its plan to abolish the Audit Commission. Until its closure, the Commission will continue to promote good governance and financial management in the public sector.

132 The Audit Commission believes publishing detected fraud data helps improve public knowledge and understanding of local government bodies' performance in the fight against fraud. Such information also supports the government's transparency and localism agenda. Local government bodies should improve their use of data, information and intelligence to focus their counter-fraud work where it will have most impact.

133 Our *PPP* reports and publication of our survey results have encouraged local government bodies to focus their counter-fraud activities on the areas of greatest risk. The Audit Commission's annual fraud survey is, currently, the only national source of information on the performance of local public bodies in the fight against fraud.

134 In addition to the annual fraud survey, we gather intelligence on fraud and corruption from our appointed auditors. Auditors of local public bodies must report to the Audit Commission all frauds over £10,000 and all incidents of corruption in the bodies they audit. This means we can track, analyse and spread information on emerging areas of fraud risk and alert counter-fraud professionals.

135 There is a similar 'early warning system' for central government departments. The Department for Communities and Local Government should consider how it will obtain such intelligence about fraud against local government when the Commission closes. One option, for example, would be to transfer this responsibility to one of the bodies that will take over the Commission's functions.

Appendix 1: Detected frauds and losses by region

This appendix contains more detail about detected fraud in regions.

Table 4: **Detected frauds and losses 2011/12 by region compared to regional spend by councils**

Region	Council spending by region 2010/11 (% of total)	Detected frauds value in 2011/12 (% of total)	Detected frauds number of cases in 2011/12 (% of total)
East Midlands	7.5	9.9	8.9
East of England	9.8	12.9	10.1
London	21.6	17.6	25.7
North East	5.1	6.0	4.8
North West	13.7	13.6	10.8
South East	14.1	11.6	14.9
South West	8.6	8.6	8.6
West Midlands	10.2	11.3	9.6
Yorkshire and Humber	9.3	8.5	6.6
TOTAL	100.0ⁱ	100.0	100.0

Source: Audit Commission

ⁱ 2010/11 data were the most recent at the time of publication. Data for the first quarter in 2011/12 indicates no substantial variation from figures returned in 2010/11.

Table 5: Comparison of detected frauds and losses by region in 2011/12 compared to 2010/11

Region	2011/12 reported losses (£m)	2010/11 reported losses (£m)	Change %	2011/12 reported cases '000	2010/11 reported cases '000	Change %
East Midlands	16.9	15.6	+ 8	12.7	12.6	+ 1
East of England	17.8	21.5	- 17	15.5	15.9	- 3
London	45.4	54.2	- 16	21.8	23.6	- 8
North-East	8.5	8.7	- 2	7.5	8.9	- 16
North-West	19.3	21.2	- 9	17.2	15.8	+ 9
South East	26.9	22.3	+ 21	14.4	13.9	+ 4
South-West	15.5	15.2	+ 2	10.7	11.1	+ 4
West Midlands	17.2	15.1	+ 14	13.9	8.7	+ 18
Yorkshire and Humber	11.5	11.2	+ 3	10.3	10.3	0
TOTAL	179	185	- 3	124	120.8	+ 3

Source: Audit Commission

Table 6: **Regional analysis of detected tenancy fraud**

Region	2011/12 No. of properties recovered	2010/11 No. of properties recovered	Councils with housing stock recovering at least one property in 2011/12 (%)	Total housing stock 2011/12	Recovered properties as a proportion of total council housing stock (%)
East Midlands	21	54	34.6	190,100	0.02
East of England	82	82	40.0	164,015	0.05
London	1,209	1,337	100	470,717	0.26
North East	32	3	44.4	127,535	0.02
North West	39	57	50.0	99,508	0.04
South East	74	56	25.0	181,878	0.04
South West	31	35	33.3	101,798	0.03
West Midlands	211	101	61.5	205,790	0.10
Yorkshire and Humber	49	53	41.7	237,143	0.02
TOTAL	1,748	1,778	50.0	1,778,484	0.10

Source: Audit Commission

Table 7: **Detected housing tenancy frauds by local authority type 2011/12**

Council type	Total social housing stock	Tenancy frauds detected	Properties recovered as a % of housing stock
London boroughs	471,000	1,209	0.26
Unitaries	349,000	214	0.06
Metropolitan districts	504,000	223	0.04
Districts	454,000	102	0.02

Source: Audit Commission

Appendix 2: Checklist for those responsible for governance

Checklist

General	Yes	No
1 Do we have a zero tolerance policy towards fraud?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
2 Do we have the right approach, and effective counter-fraud strategies, policies and plans? Have we aligned our strategy with <i>Fighting Fraud Locally</i> ?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
3 Do we have dedicated counter-fraud staff?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
4 Do counter-fraud staff review all the work of our organisation?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
5 Do we receive regular reports on how well we are tackling fraud risks, carrying out plans and delivering outcomes?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
6 Have we assessed our management of counter-fraud work against good practice?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		

General	Yes	No
7 Do we raise awareness of fraud risks with:		
■ new staff (including agency staff);	<input type="radio"/>	<input type="radio"/>
■ existing staff;	<input type="radio"/>	<input type="radio"/>
■ elected members; and	<input type="radio"/>	<input type="radio"/>
■ our contractors?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
8 Do we work well with national, regional and local networks and partnerships to ensure we know about current fraud risks and issues?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
9 Do we work well with other organisations to ensure we effectively share knowledge and data about fraud and fraudsters?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
10 Do we identify areas where our internal controls may not be performing as well as intended? How quickly do we then take action?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
11 Do we maximise the benefit of our participation in the Audit Commission National Fraud Initiative and receive reports on our outcomes?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
12 Do we have arrangements in place that encourage our staff to raise their concerns about money laundering?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
13 Do we have effective arrangements for:		
■ reporting fraud;	<input type="radio"/>	<input type="radio"/>
■ recording fraud; and	<input type="radio"/>	<input type="radio"/>
■ whistle-blowing?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		

General		Yes	No
14	Do we have effective fidelity insurance arrangements?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
Fighting fraud with reduced resources		Yes	No
15	Have we reassessed our fraud risks since the change in the financial climate?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
16	Have we amended our counter-fraud action plan as a result?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
17	Have we reallocated staff as a result?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
Current risks and issues		Yes	No
Housing tenancy			
18	Do we take proper action to ensure that we only allocate social housing to those who are eligible?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
19	Do we take proper action to ensure that social housing is occupied by those to whom it is allocated?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
Procurement			
20	Are we satisfied our procurement controls are working as intended?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			
21	Have we reviewed our contract letting procedures since the investigations by the Office of Fair Trading into cartels, and compared them with best practice?	<input type="radio"/>	<input type="radio"/>
Previous action:			
2012 update:			

Current risks and issues	Yes	No
Recruitment		
22 Are we satisfied our recruitment procedures:		
■ prevent us employing people working under false identities;	<input type="radio"/>	<input type="radio"/>
■ confirm employment references effectively;	<input type="radio"/>	<input type="radio"/>
■ ensure applicants are eligible to work in the UK; and	<input type="radio"/>	<input type="radio"/>
■ require agencies supplying us with staff to undertake the checks that we require?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
23 Where we are expanding the use of personal budgets for adult social care, in particular direct payments, have we introduced proper safeguarding proportionate to risk and in line with recommended good practice?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
24 Have we updated our whistle-blowing arrangements, for both staff and citizens, so that they may raise concerns about the financial abuse of personal budgets?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
Council tax discount		
25 Do we take proper action to ensure that we only award discounts and allowances to those who are eligible?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
Housing and council tax benefits		
26 When we tackle housing and council tax benefit fraud do we make full use of:		
■ National Fraud Initiative;	<input type="radio"/>	<input type="radio"/>
■ Department for Work and Pensions	<input type="radio"/>	<input type="radio"/>
■ housing benefit matching service;	<input type="radio"/>	<input type="radio"/>
■ internal data matching; and	<input type="radio"/>	<input type="radio"/>
■ private sector data matching?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		

Emerging fraud risks	Yes	No
27 Do we have appropriate and proportionate defences against emerging fraud risks:		
■ business rates;	<input type="radio"/>	<input type="radio"/>
■ Right to Buy;	<input type="radio"/>	<input type="radio"/>
■ Social Fund and Local Welfare Assistance;	<input type="radio"/>	<input type="radio"/>
■ Local Council Tax Support;	<input type="radio"/>	<input type="radio"/>
■ schools; and	<input type="radio"/>	<input type="radio"/>
■ grants?	<input type="radio"/>	<input type="radio"/>
Previous action:		
2012 update:		
<hr/>		
<i>Source: Audit Commission</i>		
<hr/>		

Appendix 3: Method for estimating the extent of housing tenancy fraud

To estimate the scale of tenancy fraud, we undertook a survey of proactive tenancy fraud detection activities undertaken by English social housing providers (councils, ALMOs and housing associations).

Any social housing provider could submit data. However, strict inclusion criteria were set for any data submitted to be included in the final analysis, as follows:

- all such proactive exercises had to have been undertaken by either fraud investigators or housing officers with enhanced fraud awareness training;
- no advance notice had been given for the proactive exercise;
- all suspicions of tenancy fraud had been followed up robustly; and
- the selection of the properties checked was random.

A total of 23 small scale proactive detection exercises in London met the inclusion criteria, totalling 1,488 properties. The findings of this analysis of the 23 proactive exercises were then triangulated with the total annual detected fraud results of three London social housing providers. These three providers were able to submit only the total annual data for tenancy fraud detection exercises for their organisation, rather than the constituent small scale proactive detection exercises analysed earlier. These annual exercises did however meet the other inclusion criteria. These three providers submitted data on 4,505 properties checked for tenancy fraud.

Our analysis of the results of the 23 small scale proactive exercises, triangulated to the larger scale annual results for three other social housing providers indicates that the tenancy fraud level in London is typically between 4 and 6 per cent. This constitutes the first professional or academic attempt to collate and analyse such activities, from which to better derive an estimate for the scale of housing tenancy fraud.

We recognise that the results are based on a small sample that is neither random in selection nor representative of the total population. Thus, the results are indicative rather than statistically significant.

By taking the lower 4 per cent tenancy fraud level for London, we prudently estimate that approximately 32,000 social homes in London are subject to some form of tenancy fraud.

After discussing these results with a group of social housing and fraud experts, we have concluded it is likely that the level of non-London tenancy fraud is at least half of that indicated for London. On this basis, we contend, therefore, that it is prudent to assume that non-London tenancy fraud is typically 2 per cent. Combined with the London analysis, this indicates that approximately 98,000 social homes in England could be subject to some form of tenancy fraud.

In addition, Table 8 below shows the impact that varying levels of non-London housing tenancy fraud would have nationally. The London figure is based on the prudent 4 per cent tenancy fraud level that our research indicates.

Table 8: **Potential scale of housing tenancy fraud**

Social homes subject to housing tenancy fraud (assumes 4% fraud level in all cases)		Total properties subject to housing tenancy fraud
London	Non-London	
32,000	33,000 (1)	65,000
32,000	50,000 (1.5)	82,000
32,000	66,000 (2)	98,000
32,000	83,000 (2.5)	115,000
32,000	99,000 (3)	131,000
32,000	116,000 (3.5)	148,000
32,000	132,000 (4)	164,000

Source: Audit Commission

Appendix 4: Case studies

Case study 9

Housing tenancy fraud

A council in northern England used the Fraud Act to prosecute a tenancy fraudster for unlawful subletting. Since November 2009, the fraudster had charged a private tenant £450 monthly rent, while the fraudster paid the council £350 rent for the same property. Pleading guilty at court, the fraudster received a 12-month conditional discharge and was ordered to pay costs. Following a notice to quit, the council retook control of the property.

Case study 10

Housing benefit and tenancy fraud

A fraudster who had no right to stay in the UK used false identification to gain Jobseeker's Allowance, social housing and housing and council tax benefit. The Department for Work and Pensions discovered the fraud and investigated the case, assisted by the local council, UK Border Agency and police. The housing and council tax benefits amounted to £3,500. The fraudster was found guilty of benefit fraud offences and sent to prison for 14 months. The council also recovered the property. Following his term of imprisonment, the fraudster was deported.

Case study 11

NFI matches – housing tenancy and housing benefit fraud

An Audit Commission NFI data match identified that an individual was a tenant and claiming housing benefit at two councils – one in the north and one in the east of the country. The resulting investigation showed the tenant remained resident at the property in the north of the country, but had another tenancy and claimed benefits in the east of the country. The council there prosecuted the fraudster for benefit fraud valued at almost £5,000 and recovered the property. The fraudster received a 12-month conditional discharge and was ordered to pay £100 costs.

Case study 12

Housing tenancy fraud

In 2012, a council tenant in the Midlands was found guilty of housing tenancy fraud and claiming more than £10,000 in housing and council tax benefit, despite not living in her council home for 18 months. The fraudster failed to inform the council that she was no longer resident at that property, thereby committing tenancy fraud. As a result of enquiries by the council's fraud investigation team, the tenant was charged under the Fraud Act with failure to disclose information in relation to the tenancy. The tenant was fined £100 and ordered to pay £360 costs and a £15 victim surcharge.

There are currently 3,000 families on that council's housing waiting list, with an average waiting time for a property of 18 months. The council property has now been relet.

Case study 13

Right to Buy fraud

A tenant unlawfully obtained a council home for eight years using false identification on his application. He later purchased the property under Right to Buy, receiving a discount of over £33,000. The original tenancy fraud was later discovered. The fraudster, therefore, unlawfully obtained social housing and subsequently illegally gained ownership of the property. The fraudster pleaded guilty at court and was sentenced to 21 months in prison.

Case study 14

Right to Buy fraud

A couple had a joint tenancy with Affinity Sutton, a national affordable housing provider, for several years. On the death of the husband, the wife subsequently claimed succession to that property and gained sole tenancy rights. After several months, the tenant applied for a Right to Buy discount to purchase the property. The discount was £75,000. The four-bedroom property had a value of £470,000.

An allegation was made to Affinity Sutton's fraud hotline that a group of people were occupying the property and that the lawful tenant was not resident. The investigation discovered the tenant had divorced her husband and moved out of the property ten years before he died. When confronted with the evidence, the fraudster stated she had applied to become the sole tenant and for the Right to Buy discount at the instigation of a family member. She was instead living with a new partner in a retirement unit in a neighbouring council. The Right to Buy purchase was refused and the tenant gave up the tenancy.

Case study 15

Insurance fraud

A council seeking to reduce costs reviewed its insurance claims procedures. This raised concerns around the use of certain local solicitors by claimants, and specific types of claim. This led the council to fundamentally change its approach to claim handling, bringing the function back in-house. This included using counter-fraud specialists.

The council has now developed significant local knowledge and an intelligence database about this fraud type. It subjects claims to detailed investigation when a suspicion of fraud arises. The council attributes its success to using staff knowledge of the local area and maximising the expertise of other staff, such as highway engineers. The council also works with other stakeholders, such as neighbouring councils, the police, and the Insurance Fraud Bureau.

This approach has resulted in the council:

- saving over £800,000 in a 20-month period;
- reducing the insurance budget by 25 per cent;
- settling claims quicker;
- helping break an organised fraud ring; and
- prosecuting fraudsters.

The Association of Local Authority Risk Managers highly commended this work.

Case study 16

Social care fraud

Councils fund residential care to people in need, where they do not have capital over £23,250. Above this threshold, people have to self-fund.

A council funded residential care to an older person based on financial details supplied by his son, who held Power of Attorney. The council later discovered that the older person's savings exceeded the threshold. A resulting multi-agency investigation involving the council's benefit fraud investigators and Adult Health and Wellbeing directorate, and the Department for Work and Pensions, found the father and son had a joint savings account in excess of £170,000. This had not been declared.

In addition, the council's accredited financial investigator discovered an extra £116,000 held in a foreign bank account. The cost of the fraud relating to the father's residential care came to over £89,000. There were also other benefit-related offences. The son was sentenced to 13 months in prison. Under the Proceeds of Crime Act, the court directed that the £116,000 should be used to cover the loss to the public purse and trial costs.

Case study 17

Abuse of position

Certain council staff have access to the Department for Work and Pensions computer records. This access enables quick and efficient checks on a person's benefit claim. At one council, an experienced housing benefit officer accessed the Department for Work and Pensions computer on seven separate occasions to check her daughter's benefit claim. When confronted, the benefit officer denied accessing the information inappropriately. However, working with the Department for Work and Pensions, the council was able to confirm she had abused her position. The council dismissed the officer, recognising the reputational damage the case had brought and the risk that losing computer access would have to their service delivery.

Case study 18

Joint working

An initial investigation into a tenancy subletting fraud led to a multi-agency investigation, involving a council, the Department for Work and Pensions, NHS Protect and the UK Borders Agency. The investigation found that the fraudster had obtained two unlawful tenancies using false French and UK passports. In addition, by using fake birth certificates, she claimed for children she did not have, gaining benefit totalling £7,000, and was allocated a larger property.

She also fraudulently gained student nursing bursaries and tuition fees worth £67,000. She secured a student exemption from council tax, using letters from bogus colleges. She received a prison sentence of four years.

Investigators continue to track down those who colluded with her and supplied the false documentation that facilitated the crime.

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If you require a copy of this document in an alternative format or in a language other than English, please call: **0844 798 7070**

We welcome your feedback. If you have any comments on this report, are intending to implement any of the recommendations, or are planning to follow up any of the case studies, please email: nationalstudies@audit-commission.gov.uk

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West Midlands Best Use of Stock Partnership

Tenancy
Fraud Offer



WM BUS

FOREWORD

As providers of social housing we know that social housing is a valuable asset. Currently, demand significantly outstrips supply and it is our duty to ensure our homes are being let to those households in genuine need of housing. The cost of tenancy fraud to the public purse is estimated to be £900m every year; in fact in terms of financial scale, it is the most significant area of fraud facing local government.

We are frustrated that tenancy fraud prevents us from making the best use of our housing stock and offering every one of our properties to families and individuals in need of a home. In many cases, tenants make significant sums of money from unlawfully sub-letting their property and therefore denying people with a genuine need the opportunities social housing can afford.

We intend to stop tenancy fraud and have chosen to work as a partnership to take robust action to tackle it. Collectively the seven local authorities and 11 housing providers of the WMBUS partnership are responsible for more than a quarter of a million socially rented homes across the West Midlands region.

This document outlines our commitment to work together and what we as a partnership intend to do. We see this as a statement of intent by us and a clear message to our tenants of our determination to prevent, detect and pursue cases of tenancy fraud.

Signed:

Ruth Cooke

CE Midland Heart



Kerry Bolister

Director Sandwell



What is Tenancy Fraud

Tenancy Fraud, also known as a Social Housing Fraud, is the unlawful or illegal misuse of a social-rented property. This can include, but is not limited to, actions like subletting the property for profit whilst the registered tenant lives elsewhere, or abandoning the property and not using it as their sole and principle home. Tenancy Fraud is a national concern as it prevents people in real need of housing from accessing homes which are being used by fraudsters.

The West Midlands Making Best Use of Stock Partnership (WMBUS) have agreed a set of commitments to tackle tenancy fraud which are outlined in this document.

The Scale of Tenancy Fraud

The Audit Commission estimated in 2009 that at least 50,000 properties in England were being fraudulently used- equating to 1% of the total social housing stock. More recent research has suggested that the true figure may be close to 150,000 socially rented homes.

Given the total stock holdings for the seven local authorities and 11 housing providers in the WMBUS Group of approximately 262,000 it is certain there will be levels of social housing fraud that needs to be detected, and more importantly prevented in the future.



The Cost of Tenancy Fraud

The National Fraud Authority has placed a value of £900m on the cost of tenancy fraud to the public purse each year. This calculation is based on the average cost of keeping a family in temporary accommodation for 12 months, because for every property which is being used fraudulently, a household is denied access to suitable accommodation.

Using the estimated figure of approximately 1% of social housing use being fraudulent, we can assume there are approximately 2,600 fraudulently used properties across the WMBUS group. According to the National Fraud Authorities calculations, the cost of tenancy fraud to the public purse in the region is estimated at £46 million each year.

Furthermore the replacement value of the fraudulently used stock (that is the cost to build properties to make up for those being occupied fraudulently) equates to £390 million.

Currently, there are almost 2 million families in England on the social housing waiting list, as well as 250,000 severely over-crowded households in urgent need of appropriate housing.

New legislation enacted as part of the Welfare Reform Act 2012, in particular the 'size criteria' element of housing benefit payments, has increased demand for available properties across the social housing sector.

The DWP has estimated that 110,000 housing benefit claimants in the West Midlands region will be affected by the size criteria and would benefit from moving into a smaller social rented property.



Definitions

There are a number of forms of tenancy fraud, which can occur at any stage during the tenancy 'lifecycle'. The specific details of what constitutes tenancy fraud are outlined below:

Unauthorised Subletting

The tenant claims to live at the property, but instead lets all or part of it out without landlords' consent.

Non- Occupation

The tenant claims the property as their principal home, but instead uses it as a second property and uses it infrequently.

Key Selling

The tenant leaves the property and passes on the keys in return for a favour, or in place of a payment, or in exchange for payment. This would present itself as unauthorised occupation after the keys had changed hands.

Fraudulently Obtaining Social Housing

The tenant provides false information in order to gain a tenancy.

This includes:

- Misrepresentation of circumstances - including providing a false statement when applying to join the housing waiting list, or providing a false statement when applying as a homeless person
- Providing false identification – including using false documents or misrepresenting their identity using another persons' documents



Wrongly Claimed Succession

The rules surrounding succession are complex, but the terms of wrongly claimed succession can be generalised as:

- The occupier is not a person who is entitled to succeed- they do not have the right kind of relationship with the former tenant, or they have not resided at the property for appropriate length of time

Unauthorised Exchange and Assignment

Unauthorised Exchange occurs when two or more tenants 'swap' their homes, without obtaining permission from the landlord.

Unauthorised Assignment occurs when the tenant gives their tenancy to partner or family member who may or may not have lived in the property with them, without obtaining permission from the landlord.

WMBUS Commitments

The National Fraud Authority (NFA) has published a strategy for Local Authorities to better protect themselves from fraud across the public sector, including tenancy fraud. The strategy, titled Fighting Fraud Locally, outlines three strands of a successful counter-fraud approach: Acknowledge, Detect and Pursue



Acknowledge

Fighting Fraud Locally recommends that in order to effectively tackle fraud, organisations should:

- Assess and understand fraud risks
- Commit support and resources
- Maintain a robust anti-fraud response

In response the WMBUS Partnership commits to:

- Review current procedure for the housing application process to identify areas of vulnerability for fraud to enter the system
- Review 'fraud awareness' at an organisational level and identify any need for additional training
- Review current tenancy fraud policy and procedure for each organisation



Detect

The Fighting Fraud Locally strategy recommends that in order to effectively detect fraud organisations should:

- Make better use of information technology
- Enhance fraud controls and processes
- Develop a more effective anti fraud culture

To meet these objectives, WMBUS will:

- Take part in regional data matching with other providers across the West Midlands
- Maintain accurate records of reports of tenancy fraud including outcomes
- Conduct systematic pre-tenancy checks and update historic application information for those on the housing waiting list
- Verify applicants ID and documentation in line with good guidance
- Include signed statements on all tenancy applications and agreements that verify the accuracy and truthfulness of statements given by applicants
- Conduct tenancy audits, either as part of a planned programme of visits or to properties considered to be 'at risk' of tenancy fraud
- Take photographs of tenants and link the images to the tenancy files
- Develop a regional awareness-raising campaign for the public
- Provide a reporting facility for the public and staff



Pursue

In order to effectively pursue cases of fraud, the Fighting Fraud Locally strategy recommends:

- Prioritising fraud recovery and the use of civil sanctions
- Developing the capability and capacity to use the legislation available to deal with fraudsters appropriately
- Collaborating across local authorities and with law enforcement

The WMBUS Partnership will:

- Actively seek to resolve appropriate cases of tenancy fraud through both the civil and criminal courts, if necessary, to recover money and property, as well as seeking justice for criminal acts
- Promote, as group, successes in tackling tenancy fraud
- Work as a partnership to commission legal services to assist in compiling cases for court and for advisory services
- Share good practice and lessons learned across Partners
- Link in to national good practice sharing networks



Meeting of the Environment Scrutiny Committee - 18th March 2013

Report of the Assistant Director of Housing Services - Directorate of Adult, Community & Housing Services

Review of Allocations and Tenancy Policy

Purpose of Report

1. To consider the outcome of consultation on issues arising from the Localism Act, the revised Code of Guidance on Allocations, and Welfare Reform.

Background

2. This report concerns Dudley's Allocations Scheme for council housing and nominations, and the types of tenancy we offer. Consultation began with a listening exercise that took place in summer 2012 and with debate at the annual Tenant Conference in September. The Housing Working Group then considered the issues at its meeting on 12th December 2012, since which time there has been formal consultation with
 - Dudley Federation of Tenants & Residents Associations
 - Private registered providers (housing associations), through Dudley Housing Partnership
 - The Homelessness Strategy Review Group
 - Area Housing Panels
 - Customers, through an on line and paper questionnaire.
3. The purpose of this report is to summarise the outcomes of the consultation and the intended way forward. The views of the Housing Working Group are that certain decisions could be made now, but others should be deferred. The main options still under consideration relate to
 - Whether to maintain an open waiting list or to exclude certain groups
 - Whether to introduce any new priority groups
 - Whether to make use of the new flexible (fixed term) tenancies
 - How best to address some of the imbalance in supply and demand for different age groups and household sizes through our designations policy on flats and maisonettes.

Waiting list

4. Subject to eligibility under Nationality and Immigration rules set by government, we currently allow anyone over 18 and a small number of 16/17 year olds to join our waiting list, providing they are not subject to specific exclusions related to their previous behaviour. However, we generally give a lower priority on the list to people from other boroughs, people with equity from the sale of owner occupied properties,

and people who owe us money. Our policy on debt will need to be reviewed in response to Welfare Reform, and it is suggested that we should allow tenants to transfer or exchange their homes for smaller accommodation where either

- The rent account is clear prior to 1st April 2013 and falls into arrears because the tenant is genuinely unable to pay the under occupation penalty
- There were arrears prior to 1st April 2013 which had been regularly reduced for a period of at least three months and the tenant will have an under occupation penalty which they are genuinely unable to pay.

5. The new flexibilities are designed to allow us to maintain a smaller, more manageable waiting list, and we could choose, for example
 - To exclude completely people who do not already live in the borough
 - To require people to have lived here for a certain period of time before joining the list (or for a certain amount of time over previous years)
 - To exclude all owner occupiers, or all except those to whom we have a statutory duty and/or those needing sheltered housing
 - To exclude people who in our view have no housing need.
6. The advantages of maintaining a smaller list are that we may expend less officer time on managing applications and may avoid raising unrealistic customer expectations. The disadvantages are that we may have to deal with more challenges and appeals, will have less real time data on housing demand, and may have fewer applicants available for properties that are difficult to let.
7. The outcome of our December meeting was that Members leaned towards an open list with less preference for some groups, but were concerned about the impact of neighbouring authorities introducing exclusions. So far, only Sandwell have decided to introduce a qualification around length of residence, but some others are still considering. We know that Sandwell is already our main source of migration into Dudley, and demand may well increase. It is therefore felt prudent at this stage to defer our decision until the position of neighbouring authorities is decided.

Preference on the waiting list

8. The existing bandings scheme is at Appendix A. It has been in place since June 2010 and has worked well to prioritise on a combination of housing need, benefit to the council, and waiting time, accepting of course that the excess of demand over supply means that many more are disappointed than are successful. Consultation has explored whether we should take up the new opportunity to prioritise on “community contribution”, and whether there are needs that are not currently recognised.
9. Some of our private registered providers are starting to build community contribution into their customer contract, and therefore support the principle. DFTRA Board also agreed with the principle, whilst recognising that it may be a challenge to implement and manage. Around half of customers felt that community contribution should be recognised, whilst one quarter disagreed and one quarter had no views either way. However, in considering what sort of community contribution may be relevant, 77% wanted to see Armed Forces personnel prioritised, and around 50% in each case supported foster/adoptive parents, people working or volunteering (especially those in low paid employment in the immediate area), and carers.
10. Recent changes in the law have extended the rights of Armed Forces personnel including reservists, and any who have a connection to Dudley would already be in

band 1 or 2. It has been suggested that we could give additional preference by backdating their band start date to the date of enlistment to give priority over the majority of others in the band. Foster/adoptive parents are currently dealt with through the exceptions process which if confirmed by Childrens Services would generate band 2. We could therefore make them a named category in this band, instead of dealing with them by exception. The Working Group supported both of these proposals, but felt that giving preference to people who are working, volunteering or caring should only be considered as part of a local lettings plan, either for a new build scheme, or to address specific issues in an area.

11. In addition to “community contribution”, we have also consulted around other factors that may or may not be regarded as housing needs. There was widespread support for both social and private tenants to be given some preference where their present home has become unaffordable through Welfare Reform or other factors, and the Working Group felt that this should be identified as a need. They also agreed that the the existing rule for tenants wishing to transfer within two years of taking up a tenancy should be strengthened, so that such a transfer can only take place where the tenant has exceptional, unforeseen circumstances, and the move is of some benefit to the council.
12. The position on our waiting list of private tenants and lodgers is that they are generally in band 6 unless they are also overcrowded or have other needs. The Working Group felt that this should be reviewed at a later date in conjunction with the matter of exclusions from our waiting list, and that we can also consider at that time whether to simplify the scheme by reducing the number of bands. It is recognised that in the present housing and benefit climate, it is preferable for most young adults to remain at home unless either they are working or there is some genuine reason that they need to move out. It would support this if we adopt 16 instead of 18 as the age at which a young person needs their own room at home, which will allow some families a better chance to upsize and is in line with the bedroom standard.
13. Earlier consultation had questioned the level of priority given to people leaving tied tenancies, but the wider consultation indicated majority satisfaction with these having some preference.

Best use of stock

14. Our exercise to identify and talk to tenants who will be affected by the “bedroom tax” has revealed that many tenants under-occupying houses are hoping to be able to “pay to stay”, although some will be looking to downsize if the accommodation on offer is acceptable. Conversely, more tenants in flats and maisonettes are saying that they want to move or will have to do so. These are mainly single people in two bed flats, and couples and small families in three bed maisonettes. Accepting as suggested in paragraph 15 that we will give some priority to these, we will be adding to the challenges that we already face. The bedroom standard allows one bedroom each for
 - Each couple or adult
 - Each pair of children of the same sex under 16
 - Each pair of children of opposite sexes under 10
 - Any other child
15. We need to make more of our one and two bedroom accommodation available to younger people (under 30) and small families respectively. We need to ensure that

flatted accommodation is attractive, carefully let and well-managed if it is to be attractive to households who are currently living in or bidding for houses. We also need to ensure that changing the mix of tenants does not drive out any existing residents. The current designations are out of step with demand, because 44% of single people on our waiting list are under 30 and only 7% of our stock is open to this group, whereas 33% of single applicants are 40-59 and 92% of stock is open to this group. Allowing for some variation in rules, the general mix of accommodation is:

Designation	No. of Bedrooms	No. of Bedrooms	No. of Bedrooms	No. of Bedrooms
	0	1	2	3
ANY AGE OVER 30 (CHILDLESS)	8	242	313	1
ANY AGE (CHILDLESS)	165	148	0	0
YOUNG SINGLES (UNDER 30)	1	129	108	14
OVER 30s & FAMILIES	55	984	1326	647
SINGLES & COUPLES 40+	23	2527	1194	26
OLDER PEOPLE	101	298	10	7

16. Private registered providers understood the issues but recognised that they need to be addressed by the council and its tenants and residents. The DFTRA Board accepted that “no change is not an option” and asked for wide consultation with affected residents. All tenants and leaseholders in flats and maisonettes were written to and invited to express their views, and there was a consultation meeting with the High Rise Living Forum on 26th February. A final analysis of the feedback is still being collated, but on the results to date
 - 26.5% felt that different age groups and household types should continue to be segregated, by allocating them to different floors within a block
 - 20.6% felt that high rise blocks should continue to be designated by age, but two bed mature flats could be let to people with adult children
 - 18% felt that most low rise flats should be for younger people and families, so that most high rise could remain as they are
 - 16.5% felt that all designations should be abolished
 - 9.2% preferred an area by area solution, even if this meant families in high rise blocks
 - 3.3% said we should allow small families (one child) in high rise blocks.
17. A number of residents have also written in, mostly to express their views that their particular block is best suited to older people. Some of these are from very small, settled communities, some of which have particular facilities such as Homecall, and it should be possible to reassure them at an early stage. The demographics are such that any accommodation currently reserved for and suited to people of pensionable age should be able to be preserved, and that we will be looking to add to it.
18. The whole issue of designations has to be addressed, but it will be critical that whatever approach is agreed, the implementation must be carried out sensitively and we must be accountable to existing residents. A useful discussion was held with the

High Rise Living Forum along these lines, and began to consider what additional safeguards may be required.

19. The Working Group agreed that a major exercise needs to be undertaken over coming months to explore the future use of our high and low rise blocks, and that they would wish the issue to remain part of their work programme.

Tenancy conditions

20. The Localism Act has introduced the option of flexible (ie fixed term) tenancies. The rights of existing tenants to a lifetime tenancy are protected, but new tenants could be offered fixed term tenancies which comply with our Tenancy Strategy. These would generally need to be tenancies of five years with the option to renew, and could be used across the board or selectively.
21. The advantages of applying these new flexibilities are that they improve our ability to make the best use of our housing stock, albeit only in respect of new and future tenancies. For example, we might choose to use fixed term tenancies for particular stock (eg adapted properties & larger family homes) or for particular customers (eg foster parents & others with short term needs). The use of fixed term tenancies might provide reassurance to existing residents if we are changing the designation of a block of flats.
22. The view of DFTRA was that as existing tenants are protected, it would be acceptable to consider fixed term tenancies for new customers, in response to short term needs and high demand homes. There were mixed views expressed by this Working Group and by Area Panels. It was noted in discussion at Dudley Housing Partnership that historically customers have preferred council offers to housing association offers, so perhaps we should guard against making our offer to prospective tenants too much more attractive than the housing association offer, as we are all working together to meet housing needs.
23. The views expressed so far by customers are
 - 50.7% felt Dudley council tenancies should continue to be for life
 - 18.4% felt some tenancies should be fixed term because the tenant's needs may be short term
 - 17.3% felt all new tenancies should be fixed term and people should move on when they no longer need a council home
 - 11.8% felt some tenancies should be fixed term because the property is in short supply eg adapted homes and large houses.
24. The Working Group considered these responses, but also drew attention to the specific issue of high cost voids that had occurred because tenants refused improvements. It was suggested that the use of fixed term tenancies would make it easier for the council to manage its customer relationship, because tenants who were resistant to providing access for improvements and for home checks would know that ultimately their tenancy might not be renewed. The Working Group therefore felt that more work should be undertaken on the potential use of flexible (fixed term) tenancies.

Conclusion

25. Members' views are invited, and will be reported to the Cabinet Member for Housing, Libraries, Archives & Adult Learning to consider the immediate changes and further work to be undertaken.

Finance

26. There are no specific financial implications arising from this report at this stage.

Law

27. The powers and duties of housing authorities in relation to the allocation and management of Council housing are set out in the Housing Acts 1985 and 1996, the Homelessness Act 2002 and the Localism Act 2011.

Equality Impact

28. The review could potentially lead to some changes impacting on residents within the borough and outside it. An Equality Impact Assessment has therefore been commenced.



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List of Background Papers

Dudley Housing Needs Survey & draft Housing Strategy
(considered by Housing Working Group 11th December 2012)
Dudley/Black Country Tenancy Strategy
Dudley Homelessness Strategy
Dudley Lettings Policy
Localism Act Part 7
Code of Guidance on Allocations

Bandings Scheme – as at February 2013

Band 1 – People the Council needs to move, ie any of the following

- People whose homes the Council is planning to demolish
- People who are tenants of a family house in the borough, owned by the Council or a housing association, and who will be moving to a flat or one bedroom bungalow
- People who have to leave a Council tenancy following the death of the tenant
- People giving up a joint tenancy of a Council or housing association rented property following a relationship breakdown, for the partner with the care of the children to remain there
- People giving up two Council or housing association rented properties in the borough, for one property of similar or lower demand
- People who are ready to move on from supported housing that is subject to Dudley's Move On Protocol or to be discharged from hospital subject to a change of accommodation
- People who have a disability and whose homes cannot reasonably be adapted to meet their needs including members of the Armed Forces and former members, including reservists, injured in active service

Band 2 – People with urgent needs, ie any of the following

- Members of the Armed Forces and former members, including reservists, who are entitled to additional preference under SI 2012 No 2989
- People the Council has accepted as unintentionally homeless and in priority need from a settled address within the borough – this need will be awarded band 2 for one month and can only be extended if it was not possible for the need to be met in that time
- People who are severely overcrowded (lacking two or more bedrooms)
- People who need to move urgently from a rented home with a serious hazard that cannot be repaired
- People with urgent medical, disability, or related support need
- People with approval for an urgent management move usually because of violence or serious risk of violence
- People who have to leave a tied tenancy because their employment has ended through no fault of their own
- People with other urgent and exceptional needs not covered elsewhere including those the Council has accepted as referrals from partner agencies

Band 3 – People with more than one need, ie more than one reason from the list in band 4

Band 4 – People with one need, ie any of the following

- People accepted by the Council as needing to move into the borough to work or to give or receive support – this need cannot be combined with other needs to create a Band 3 need
- People who are homeless but not included in Band 2 because they are non priority or are homeless intentionally – this need cannot be combined with other needs to create a Band 3 need, because the homelessness decision and award of Band 2 or 4 will have taken account of all relevant factors
- People with moderate medical, disability, or related support needs
- People who are overcrowded and need one more bedroom than they have including a single person aged 18 or over and having to share a room other than with their partner, or a single person having to share a room with more than one person
- People who are Council or housing association tenants within the borough and will be releasing a family home
- People who are Council or housing association tenants within the borough, who are singles or childless couples and will be moving from a home that is not for their age group or household type to one that is
- People with other exceptional needs not covered elsewhere including those the Council has accepted as referrals from partner agencies

Band 5 – People with reduced priority (subject to a right of appeal), ie any of the following

- People with one or more housing needs, but whose present or last settled address is not within the borough, and who have no particular need to live here
- People with one or more housing needs, but who have or have had sufficient equity to afford private rental
- People with one or more housing needs, but who have reduced priority because they have failed to pay rent, have caused neighbour nuisance or anti social behaviour, or have breached other conditions of tenancy

Band 6 – People with no recognised need, for example

- Single people or couples who are lodging and have their own bedroom
- People who have a tenancy or own a property that is adequate for their needs

Band 7 – People with no recognised need who also have reduced priority (subject to a right of appeal), ie

- People who would be in Band 6 (no need) and have reduced priority for reasons such as those described in Band 5
- People who have a housing need but have had all priority removed due to very serious anti social behaviour that makes them unsuitable to be a tenant