



WHAT YOU NEED TO KNOW ABOUT THE PREVENTION OF SOCIAL HOUSING FRAUD ACT 2013

The Prevention of Social Housing Fraud Act 2013 is a new piece of legislation which makes it a criminal offence for tenants to sublet or part with possession of, their socially rented home. This CIH members briefing will outline the key points of the Act and their anticipated impact.

The Act was originally introduced as private members bill presented by Richard Harrington MP, with broad cross-party support. The new legislation came into force on 15th October 2013 and currently applies in England and Wales only.

The main objectives of the Act are to:

- deter tenants from committing social housing fraud
- incentivise those already committing social housing fraud to stop
- increase the powers of local authorities to investigate social housing fraud
- increase the number of recoveries of fraudulently used socially rented homes

The Act takes forward proposals which were outlined by the Department for Communities and Local Government (DCLG) in the [consultation paper](#) circulated in January 2013 (read the [CIH response](#) and the [consultation summary](#) for more information).

The offence

The Act creates a new criminal offence of subletting, or parting with possession of, a socially rented home. There are two levels to the offence- 'knowingly' and 'dishonestly' which carry different sentences.

1. 'Knowingly' committing social housing fraud- this is the lesser of the two offences. The perpetrator knows their actions were against the law and a breach of their tenancy agreement.
Maximum penalty: £5000 fine
Exceptions: the individual is exempt from the offence if they committed it under threats of violence or if they had the right to transfer the tenancy.
2. 'Dishonestly' committing social housing fraud- this is the more serious offence. The perpetrator knows their actions were illegal and has done so dishonestly, for example if the tenant set out to defraud the housing provider to make a profit through subletting.
Maximum penalty: Unlimited fine and up to two years imprisonment
Exceptions: There is no exemption under the 'dishonesty' offence.

Prosecution

The Act gives the power to prosecute for these new offences to local authorities. Local authorities may prosecute on behalf of social housing providers, both in their area and from other local authority areas.



There is no obligation for social housing providers, including local authorities, to bring criminal prosecutions in cases of social housing fraud, and providers may decide that recovering the property is the priority either through surrender or court-ordered possession.

According to the DCLG [impact assessment](#) it is assumed that only 2% of cases of social housing fraud will require criminal prosecution (5% in London) and of those cases, only 10% will achieve a prison sentence.

Restitutory payments

The Act introduces a new procedure for the court to award payment to the social housing provider in the form of an 'unlawful profit order'. The award can be made by either the civil or criminal court and would be valid along side any other sanctions, including a fine, imprisonment or eviction. The order can be made for any profit gained by the tenant from subletting the property, to be paid to the social housing provider.

Security of tenure

The Act makes an amendment to the Housing Act 1988 to bring parity between assured and secure tenants, in terms of security of tenure. If a tenant parts with possession of their property, or sublets the whole of the property, they will lose their 'assured' status and security of tenure. This cannot be regained by returning to the property. This measure will make it easier for social housing providers to recover the properties as the tenancy can be ended using a Notice to Quit.

Data sharing and investigations

The Act makes provisions for the Secretary of State to create further regulations around powers to access data when investigating social housing fraud. We expect these new provisions and the full data sharing regulations to become available in the coming months.

CIH Comment

Social housing fraud, according to the Audit Commissionⁱ, affects 98,000 properties in England. Taking effective action against social housing fraud is a vital step in making the best use of homes. For every property that is illegally sublet or abandoned there is a household in temporary accommodation who is in need of somewhere to live.

CIH welcomes the provisions within the Act as they will empower providers to tackle fraud, and believe the sanctions will act as a deterrent to stop people fraudulently using their tenancies. We hope that providers continue to take a proportionate approach and that the option to prosecute is used only when it's appropriate.

For more information on effective ways to prevent and detect social housing fraud visit our making best use of stock [resources page](#).

ⁱ Protecting the Public Purse 2012 <http://www.audit-commission.gov.uk/wp-content/uploads/2012/11/20121107-ppp2012.pdf>