

<b>Item No.</b>	<b>Date:</b> 21 January 2013	<b>Meeting Name:</b> Housing and Community Safety Scrutiny Sub-Committee
<b>Report title:</b>	<b>Briefing on Illegal and Legal Subletting</b>	
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## **PURPOSE**

1. This briefing provides an update on the work currently taking place in the housing and community services department to tackle illegal sub-letting.

## **BACKGROUND SUMMARY**

2. The definition of illegal sub-letting for secure tenancies is as follows:

A secure tenant is in breach of their tenancy agreement if they sublet, or part with possession of the whole property, or ceases to occupy the property as their main and principal home.

There are a number of reasons why a legal tenant may no longer be living in a property, for example:

- The tenant has moved out or died and their family members believe that they have a right to remain in the property without checking with the landlord;
  - The tenant has moved out or died and the key has been passed on to a family member or friend who remains in the property;
  - The tenant has moved out specifically to sublet the property, probably for the purpose of raising income. This could be by letting the home as a whole or in separate rooms.
3. There is a common perception that many tenants sub-let their council homes but the extent to which this happens is largely unknown. The Audit Commission in 2009 conservatively estimated that there at least 2.5% of a London authority's stock is subject to some form of tenancy fraud.
  4. Southwark's current tenancy agreement requires our tenants to satisfy the council that they are occupying their home. We monitor this by carrying out a rolling cycle of tenancy checks which means that every tenancy is checked once every 2 years. This exercise is completed by Resident Officers carrying out programmed tenancy checks. To support the Resident Officers, the department has a specialist team to investigate allegations of tenancy fraud and recover properties that have been illegally occupied and/or obtained by deception. The team consists of a manager and two permanent officers. A further two officers in the team work primarily with our Registered Social Landlord partners and that funding is provided by the Department of Communities and Local Government.

5. The council has historically attempted to tackle illegal subletting by relying on referrals from the public, other sections within the council and external agencies. In 2002, the council introduced photo identification for all new tenancy agreements following a successful pilot exercise carried out by the Special Investigations Team. Random tenancy checks were carried out and photographs taken of the tenant/s when occupation was verified.
6. This has proved to be successful and the numbers of properties recovered by the department in 2011-2012 was 132. This was a good level of performance compared to other London councils; Lambeth Council recovered 64, Greenwich recovered 72 and Lewisham recovered 27 during the same period.
7. Legal subletting takes place in leasehold properties. Subletting a tenancy is a breach of the tenancy conditions but subletting of a leasehold property is not a breach of the lease. Therefore, the council, as the freeholder, has no control over the leaseholder's choice to sublet. There may however be a requirement for leaseholders to notify their respective mortgage lenders. Increasingly, there is concern about the multiple sub-division of leasehold properties, the health and safety implications of this and the impact on tenants and resident leaseholders living in the vicinity of these multiple households. The council's response to this and the action which the council might take moving forward is currently being explored.

## **OUR APPROACH**

8. The Special Investigations Team currently uses the following methods for discovering cases of illegal subletting:
  - Fraud Hotline: advertised at various points on the council's website and included in mail shots – members of the public contact the team with information that is followed up by the team
  - Referrals from other officers within the housing and community services department, such as an Income Officer highlighting a tenant who is difficult to contact
  - Referrals and joint working with the corporate fraud team
  - Annual gas servicing programme or forced entries for non-access for the annual gas check – operatives report cases where no keys are collected or problems identified with the legal tenant
  - Key fob reconfiguration: alerted to non-occupation by the legal tenant as illegal occupiers come forward to collect the keys
  - Joint working with Council Tax recovery: cases highlighted due to high level of debt suggesting non-residence
  - Data-matching (Call Credit technology) to identify anomalies that require further investigation.
  - Joint working with Registered Social Landlords via the South East London Housing Partnership: Family Mosaic, Amicus Horizon, Peabody, Hyde and L&Q. This has achieved in 19 properties being recovered which the council has nomination rights to for the Housing List.
  - Joint partnership with multi-agencies (Police, UKBA, DWP) as tenancy fraud is associated with other types of fraud or criminal activity.

- Communications: reporting our successful cases to the press so that both the legal and illegal tenants are aware of the actions we are taking and the consequences.
9. The department's preventative measures include the following:
- Photographs on all new tenancy agreements
  - Settling-in visits on all new tenants to confirm occupancy
  - Increased requirement on proof of identification and residency documents for applying for and signing for a new tenancy
  - Document verification training to increase staff awareness
  - Better use of technology to identify fraudulent documents being produced in all departments
  - Improved liaison/awareness with other sections across the council
  - Better communication with colleagues about the work that is being undertaken and the joint effort that is needed to achieve the department's target
  - Joined the London Hub which enables data sharing amongst member authorities which helps to track tenants/applicants who may approach other authorities.
  - Communications: reporting our successful cases to the media and in-house produced literature so that both the legal and illegal tenants are aware of the actions we are taking and the consequences.
10. A number of new initiatives for 2012/13 within the council are currently underway. These include Operation Bronze, Operation Silver, and the introduction of a new tenancy visit procedure for Resident Officers to capture a number of issues whilst also verifying the legal tenant is in occupation. A new target has been set for each of the 81 Resident Officers to recover four properties every year.

### **Operation Bronze Update**

11. As a result of Operation Bronze identifying the use of false documents to obtain tenancies, 21 properties have so far been recovered and returned to the council. Of these, 17 have already been re-let to individuals and families who were previously living in temporary accommodation and other priority applicants awaiting a property allocation from the council's housing waiting list. There are currently 24 cases going through the criminal court process and 2 in the civil courts.

### **Operation Silver Update**

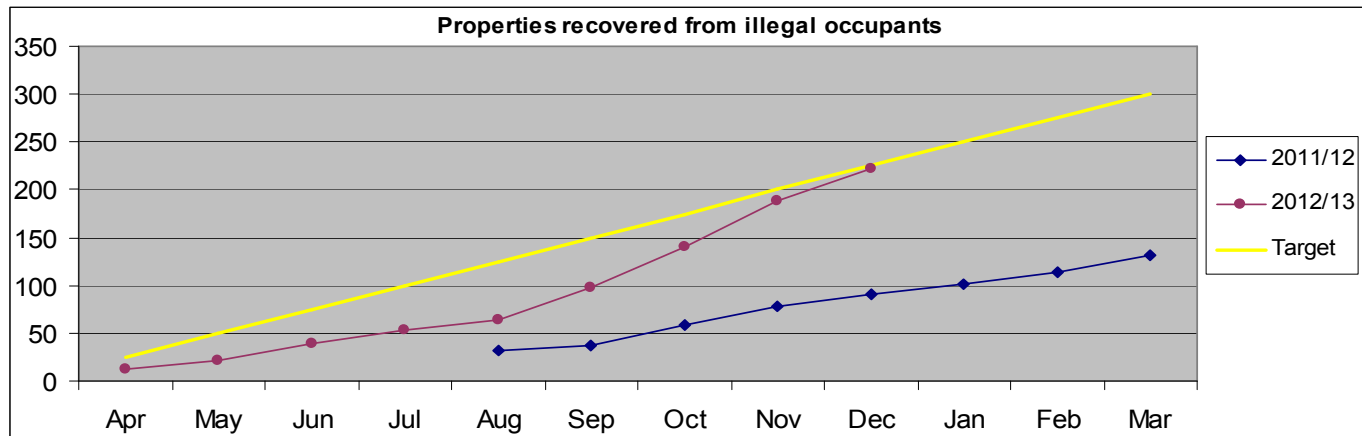
12. Operation Silver, which involves data matching using a credit agency database has, to date, seen the return of 60 properties recovered and now available for local people on the waiting list or families housed in expensive temporary accommodation.
13. In 2012 we supplied Call Credit, a credit reference agency, with 41,000 records of our tenants and waiting list applicants and matched the data against the financial footprint of both the individual and the property to determine who is in residence based on financial accounts and electoral roll information.
14. As previously reported to the Audit and Governance Committee on 9 January 2013, there were over 2,000 leads that required investigation. This is

approximately split 40:60 between red leads and amber with 748 classed as good quality matches (red) indicating a higher risk of subletting.

15. Following a full investigation of the good quality matches, which commenced in August 2012, the project has already led to the recovery of 60 properties, and a further 16 have agreed to return the keys. 303 cases are still under investigation.
16. This project has also been successful in the area of right to buy. Since the rate of discount was increased to £75,000 earlier this year, the number of applications received by Southwark Council has increased, and the council has been quick to respond to this emerging fraud risk. Through the Operation Silver project, 16 right to buy housing applications are being investigated. Three of these have already been stopped with all three applicants agreeing to return the keys.
17. Due to the amount of leads this initiative has generated, the specialist team's staffing resources has increased by three fixed-term officers with a further four fixed-term officers due to be appointed by the end of the financial year. This will bring the team to a total of one manager and ten investigating officers.
18. The council further employed the services of an external partner, RSM Tenon, to work jointly with the team to investigate a selection of red leads and to filter the high number of amber leads. The contract has a target for them to recover 75 properties by the end of the financial year. RSM Tenon started working with the team in August 2012 and will remain until 31 March 2013.
19. The amber leads have been filtered by the team (including RSM Tenon). Some leads have been retained for further investigation and the remaining have been passed to the Resident Officers to incorporate into their current tenancy visit programme. This will not only make use of the officer's local knowledge and existing relationships but will also direct them to targeted properties of a low risk that nevertheless have been matched.
20. The information provided was also used to identify a block to be targeted for a multi-agency action day. This was conducted on the morning of Saturday 1 December 2012. The unannounced visits took place at over 100 addresses in Layard Square, SE16 and involved over 30 plain clothed and uniformed officers from the team, police, UKBA, SASBU and RSM Tenon. Whilst no significant issues were found, the majority of tenants were pleased to see the council taking action. Some follow-up action to this action day is also being undertaken with one tenant terminating her tenancy as she had parted with possession and resides in another property that she purchased.
21. The Call Credit one off data-matching exercise is a new tool in the box of initiatives to tackle illegal occupancy in the borough. It has allowed the team to save time by focussing enquiries on a specific alternative address. The team was then able to gather the evidence and visit the linked address to confirm the current residency much more quickly. These visits were carried out in the early morning or evenings or weekends out of the borough to owner-occupied properties in places such as Dartford and Romford. In many cases, this has resulted in tenancies being terminated voluntarily without the need for expensive and prolonged legal action and has therefore shortened the recovery process. This data has also provided useful information for the department to update our

existing records to reflect the current circumstances in a household and brought to our attention a number of historical outstanding tenancy matters that have now been resolved. This has reduced the length of time an investigation can take because the information has already been provided and directs our enquiries to the relevant facts. The combination of additional staffing resources and quality data has improved our performance for the current year.

22. The following table presents the stats for current and previous years and shows the effect of the Operation Silver initiative on performance.



### Performance

23. 249 properties have been recovered to date from a mixture of Operation Bronze, Operation Silver, joint partnership working with RSLs (19) and normal referrals. We are on course to recover over 300 properties which is the highest recovery of illegally sublet properties to date.
24. A recent report by the Audit Commission shows that 1,209 tenancy frauds were detected (and properties recovered as a result) in all London Councils in 2011/12. This clearly shows that Southwark is a top quartile performer on tackling illegal occupancy and has been recognised as such in the recent Audit Commission publication Protecting the Public Purse.

	SIT	RSM Tenon	Resident officers	Total <u>tenanted</u> properties recovered	RSLs	All properties recovered
<b>Apr12-Dec12</b>	95	30	105	<b>230</b>	19	<b>249</b>
<b>2011/12</b>	57	n/a	75	<b>132</b>	68	<b>200</b>

### Communications

25. The department has commenced a communications plan, designed to both raise awareness of the work we are undertaking amongst residents of the borough, as well as to encourage residents of Southwark to report any suspected tenancy fraud.

26. The campaign will take the form of press adverts, posters and potentially leaflets included in the monthly rent / council tax statements which are sent out and will be ongoing throughout the year. A poster is placed on the front door of every recovered property so that neighbours and the community are aware of the work being done to tackle illegal subletting on their estate and provides a contact telephone number to report suspected tenancy fraud.



### **HR Issues**

27. Our database is being shared with corporate fraud for them to check against staff data to identify any potential issues. If, as a result, there are staff that are considered a risk they will be investigated appropriately with the assistance of the HR team.

### **Data Protection**

28. There is a data-sharing protocol agreement in place between Southwark Council and Call Credit and the London Hub. The Call Credit database has been password protected and encrypted to ensure that all activity is compliant with the relevant legislation. Internally only a limited number of staff has access to the data and this will remain controlled throughout the process.

### **Financial Implications**

29. Properties used fraudulently are not available for those in genuine need. This means that homeless families and individuals are often placed in temporary accommodation whilst they wait for an appropriate home to become available. The value of each recovered property is £18,000 (as set by the Audit Commission) representing the average cost to the Council of placing a family in temporary accommodation for one year. The National Fraud Authority has identified tenancy fraud as the largest area of fraud loss across local government.

### **The Future**

30. New legislation, The Prevention of Social Housing Fraud Bill, is due to take effect in 2013. This will give the council more powers and remedies to tackle tenancy fraud and makes illegal subletting a criminal offence. This should be seen as a valuable deterrent.
31. Currently the department recovers the property but the new legislation would allow the council to prosecute offenders who if convicted could face a term of imprisonment or receive a fine. We may also be entitled to receive financial compensation from the offender if they profited from the tenancy fraud.

### **Overview**

32. A Tenancy Fraud Meeting is held monthly to review the progress and monitor the statistics and performance. The group is chaired by the strategic director of housing and community Services and is attended by senior staff from the anti-fraud team, operations, and revenues and benefits.