



Department for
Communities
www.communities-ni.gov.uk



Public Consultation

Every House Matters: a new approach to tackling social housing tenancy fraud and misuse

June 2026



**Social Housing
Tenancy Fraud NI**

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Ministerial Foreword

Social housing is one of our most valuable public assets. It provides safe, affordable and secure homes for tens of thousands of families and individuals across our communities. Every tenancy provides not just a property, but the foundation for stability, well-being and quality of life.

That is why, as Minister for Communities, I have made housing a priority. We must protect housing as a social good, and continue to ensure the integrity of our housing system.

Weak responses to social housing tenancy fraud potentially undermine public confidence, placing pressure on our already stretched housing supply and costing the taxpayer millions of pounds each year. But more importantly, it can mean that households in objective need are denied access to a social home.

I am committed to delivering policies and programmes that will have real and meaningful impact across our communities. I believe that tackling social housing tenancy fraud and misuse is vital to this work. Now, more than ever, every house matters.

My Department, the Housing Executive and Registered Housing Associations all have a shared responsibility for tackling social housing tenancy fraud and misuse of social homes.



While we have made some progress, we all know there is much more to do: to raise awareness, both about what tenancy fraud and misuse is and why it's so important to address; to strengthen the powers to tackle tenancy fraud through investigation and sanctions; and to put in place measures to protect and support those affected.

So, I am pleased to launch this public consultation which will inform our strategic approach to tackling tenancy fraud and misuse.

This consultation invites your views on how we can make progress, develop a strategy, as well as to improve and strengthen legislation to help tackle tenancy fraud. I therefore encourage you to respond to this consultation, to play your part in developing a new approach to tackling tenancy fraud and misuse.

Gordon Lyons MLA
Minister for Communities

2. About this consultation

The purpose of this public consultation from the Department for Communities' (DfC) is to invite views on new approaches to tackling tenancy fraud and misuse, including whether legislation to tackle social housing tenancy fraud in Northern Ireland needs to be strengthened and if so, to consider how this should be done.

Duration of the consultation

The consultation will run for 14 weeks from **30 June 2026**. The deadline for responses is 5pm on **6 October 2026**.

Information events

Four information sessions will be held during the consultation period and will include an opportunity for you to ask questions. These will take place as follows:

- 11 August, 10.30 – 12.30: Guildhall, Guildhall Square, Londonderry, BT48 6DQ
- 18 August, 10.30 – 12.30: Online (link will be provided at registration)
- 8 September, 10.30 – 12.30: NICVA, 61 Duncairn Gardens, Belfast, BT15 2GB
- 15 September, 10.30 – 12.30: Online (link will be provided at registration)

If you wish to take part in any of these sessions, please [register here](#)

How to respond

Several questions are posed throughout this document to help you consider the options available. A consultation questionnaire is

provided <https://consultations.nidirect.gov.uk/dfc/tackling-social-housing-tenancy-fraud> to help frame your response. As far as possible and for analysis purposes, it would be helpful if you would use this link.

If you are unable to respond using our Citizen Space survey, please contact socialhousingpolicy@communities-ni.gov.uk for an alternative way to respond.

If you require documents to be provided in an alternative format, please contact us by email: SocialHousingPolicy@communities-ni.gov.uk.

If you have any questions in relation to the consultation, or wish to engage with us directly, you may also email us at the address above.

Departmental Response

A summary of responses to this consultation and details of the action the department intends to take, will be published on the Department for Communities website.

Equality

An Equality Impact Assessment screening document is published alongside this public consultation. Screening is essential to ensure that the consultation process is thorough and inclusive. Any response to the consultation which indicates that there may be an equality impact will be considered and addressed.

Rural Needs

The Rural Needs Impact Assessment (RNIA) is a process which must be carried out to determine whether there is a differential impact in rural areas, compared to urban areas because of the particular characteristics of rural areas. As a result of the RNIA screening, no adverse rural impacts have been identified. Any response to the consultation which indicates that there may be a rural impact, will be considered and addressed.

Data Protection

A Data Protection Impact Assessment has also been carried out, which documents how DfC will use personal information as part of the processing of responses.

Other Impact Assessments

In addition to the Equality and Rural Needs Impact Assessment screenings and the Data Protection Impact Assessment, the Department has carried out impact assessment screening on each of the following:

- Crime Impact Assessment
- Human Rights Impact Assessment
- Regulatory Impact Assessment
- Community Safety and Victims Impact Assessment
- Child Rights Impact Assessment
- Legal Aid Impact Assessment

None of the above impact assessment screenings have found any undue impacts arising from this consultation. The screenings will be reviewed and kept updated so that they reflect the continuous development and implementation of the policy.

Privacy Notice

Before you submit a response, please read the Privacy Notice published alongside this document which shows how any personal information received will be used as part of the processing of responses.

Following the end of the consultation, DfC may publish anonymised direct quotes from consultation responses. In addition, responses may be made available to the NI Assembly.

Background

3: Background

Social housing in Northern Ireland

Social housing provides affordable and secure accommodation for households based on their objective housing need. In Northern Ireland, social rented housing is provided by the Northern Ireland Housing Executive and the Registered Housing Associations. Together these are known as social housing landlords. Currently, there are over 145,000 social housing properties in Northern Ireland. Of these, approximately 83,000 are managed by the Housing Executive and approximately 51,300 are managed by 18 Registered Housing Associations¹.

Applications for all social homes are managed through the Common Waiting List and prioritised in line with the Housing Selection Scheme. If eligible for social housing, the applicant will be awarded points based on their housing need, and these points will determine their position on the Common Waiting List. Points are awarded

under three main categories: insecurity of tenure; current housing conditions; and health and social well-being needs.

Currently there are nearly 50,000 households on the Common Waiting List. Their levels of housing need vary considerably. At present, 32,000 households on the waiting list are 'Full Duty Applicants' (FDA). This means that the Housing Executive has a duty to secure housing for them under the homelessness legislation (the Housing (Northern Ireland) Order 1988). In simple terms, this means that the Housing Executive has accepted the applicant as being homeless, eligible for assistance, in priority need and not intentionally homeless. If the applicant requires it, the Housing Executive must secure temporary accommodation for Full Duty Applicants until a permanent home is found.

Each year around 6,000 social homes are allocated to applicants via the Common Waiting List.

1 This figure does not include the 10,844 Co-Ownership properties in Northern Ireland, which are outside the scope of this consultation.

Table. Growth of the social housing waiting list

	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24	2024-25	2025-26 ²
Social housing waiting list	37,611	36,198	37,859	38,745	43,971	44,426	45,105	47,312	49,083	49,755
FDA Status	16,356	17,250	19,629	20,951	22,217	23,978	26,310	29,394	31,719	32,993
% of the waiting list which has FDA status	43%	48%	52%	54%	51%	54%	58%	62%	65%	66%

Source: Department for Communities, **Northern Ireland Housing Bulletin**. Statistics for Full Duty Applicant status to 2023/24 from Housing Executive internal data.

As of March 2026, there were 5,624 households in temporary accommodation. The majority of these (57%, or approximately 3,200 households) had been living there for 12 months or less, but 470 households (almost 8%) had been living in temporary accommodation for approximately 5 or more years.

Between 2018/19 and 2023/24, expenditure on temporary accommodation increased by £31 million, to £38.6 million in 2023/24. This does not include Housing Benefit income or rent.

The Department’s expenditure on new social homes has also increased, from £121.6 million in 2018/19, to £207 million in 2025/26. Most of the Department’s capital spend goes on funding the delivery of new social homes.

Given the level of need on the Common Waiting List, it is vitally important that social homes are used for their intended purpose: allocated and occupied based on a household’s objective housing need.

What is Tenancy Fraud and Misuse?

The Department’s working definition of social housing tenancy fraud and misuse is as follows:

- the attempt to gain, or acquisition of, social housing by someone by providing misleading, incomplete or deliberately false information, misrepresenting facts or failing to disclose relevant information; or
- the misuse or fraudulent misuse of social housing, including the allocated tenant not occupying the social home as their main or only home and/or sub-letting the property, including for financial or other gain. This can include circumstances where a person provides misleading, incomplete or deliberately false information, misrepresents facts or fails to disclose relevant information.

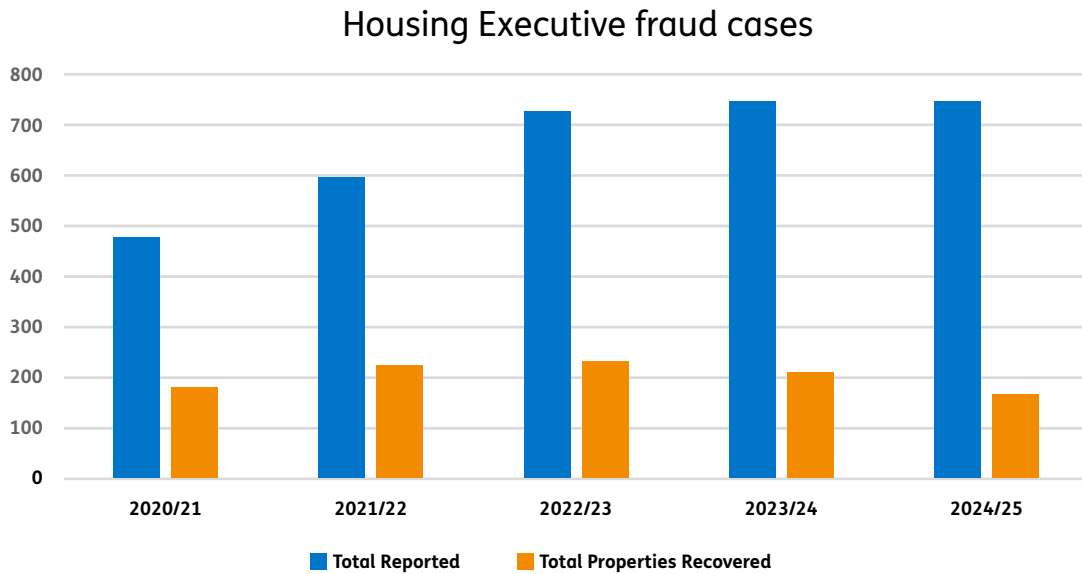
Thus, social housing tenancy fraud can include a number of different fraudulent activities:

2 2025-26 figures cover up to December 2025

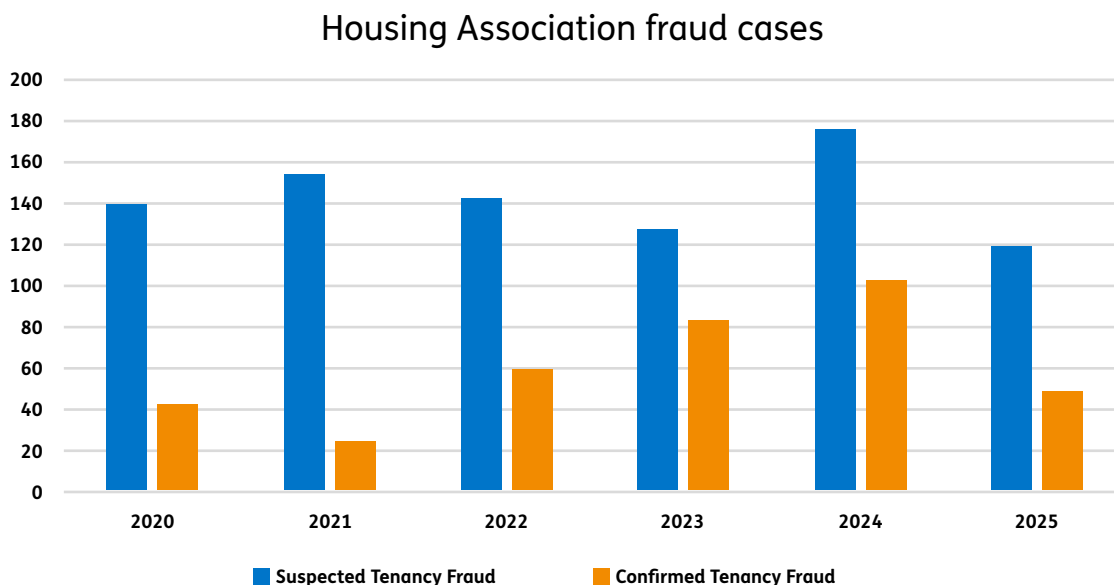
Application Fraud	
<p>This is the attempt to obtain social housing by providing misleading, incomplete or deliberately false information, misrepresenting facts or failing to disclose relevant information</p>	<p>Housing application fraud occurs during the application process for a social home.</p>
	<p>Succession fraud occurs where, following the death of a tenant, a person applies for succession to a social home.</p>
	<p>House purchase fraud occurs where a tenant applies to purchase a social home, often at a discount, through the House Sales scheme.</p>
Misuse or fraudulent misuse of Social Housing	
<p>This involves the legal tenant not occupying the social home, not occupying it as their only or principal home and/or sub-letting the property, including for financial or other gain. This could involve providing misleading, incomplete or deliberately false information, misrepresentation of facts or failing to disclose relevant information in furtherance of the fraud.</p>	<p>Subletting of a social home is where a tenant rents their allocated social home to another person often for material, financial or other gain, without the landlord’s written consent.</p> <p>Key selling is a type of subletting where a tenant sells their keys to another person.</p>
	<p>Non-occupation occurs where a tenant does not use their allocated social home as their only or principal home, either by failing to move in or by living elsewhere for extended periods without notifying their landlord. This can include cases where the tenant no longer occupies the property but allows someone else to live in their social home, even if the tenant does not gain from this financially.</p>
	<p>Abandonment is where the tenant vacates their property, with no intent to return, and does not notify the landlord thereby preventing allocation of the dwelling to others in need.</p>

Reported Levels of Tenancy Fraud in Northern Ireland

The Housing Executive collects data on the number of cases reported to it and the number of properties recovered following fraud investigations. Over the last three years, over 700 reports have been made each year, and approximately 200 properties recovered each year following fraud investigations.



Housing Associations each report to the Department on suspected and confirmed cases of tenancy fraud. Over the last six years, around 150 cases per year were suspected. The number of confirmed cases varies from 24 to 102 cases per year.



1,437 social homes (including Housing Executive and Registered Housing Association properties) were recovered in Northern Ireland between April 2020 and March 2025.

What this data shows is that properties are being recovered by the Housing Executive and Housing Associations. But it is also important to note that most properties that are investigated following fraud reports are not recovered as cases of tenancy fraud. This means that the rightful tenant has been confirmed to be occupying the property, and they have the right to continue to remain in their home.

Management of tenancy fraud and misuse

The Housing Executive and Registered Housing Associations each manage tenancy fraud and misuse as part of their day-to-day service delivery. By tackling social housing tenancy fraud proactively and effectively, landlords can be sure of who is living in their

properties. This enables them to respond more effectively to cases of anti-social behaviour, repair issues and general neighbourhood sustainability.

The social housing sector widely acknowledges that prevention is the most cost-effective way of tackling tenancy fraud and misuse. A wide variety of methods are used by landlords for example, verification checks, tenancy audits etc which help to prevent fraud from taking place. If fraud is suspected, housing officers can start investigations to determine whether there is enough evidence to determine if there is fraud involved.

Current legislative powers to tackle tenancy fraud

The Housing Executive currently investigates tenancy fraud in line with relevant legislation. It has wide powers under the Housing (Northern Ireland) Order 1981 to manage its housing stock. Other relevant legislation is listed below.

Tenancy Fraud Activity	Current Legislation
<p>Application fraud</p> <p>This is the attempt to obtain social housing by providing misleading, incomplete or deliberately false information, misrepresenting facts or failing to disclose relevant information.</p>	<p>The Fraud Act 2006 (Sections 1-9 and 11-13 extend to Northern Ireland) which deals with all types of fraudulent activity, outlines the various definitions of fraud and addresses dishonesty of obtaining services.</p> <p>It sets out 3 main types of fraudulent activity:</p> <ul style="list-style-type: none"> • fraud by false representation; • fraud by failing to disclose information; and • fraud by abuse of position. <p>Schedule 3 of the Housing (NI) Order 1983 establishes that one of the grounds on which a court may order possession of a social home is that the landlord was induced to grant the tenancy by a false statement made knowingly or recklessly by either the tenant, or someone acting at the tenant’s instigation.</p>

Tenancy Fraud Activity	Current Legislation
<p>Misuse or Fraudulent Misuse of Social Housing</p> <p>This involves the legal tenant not occupying the social home, not occupying it as their only or principal home, and/or sub-letting the property, including for financial or other gain. This could involve providing misleading, incomplete or deliberately false information, misrepresentation of facts or failing to disclose relevant information in furtherance of fraud.</p>	<p>The Fraud Act 2006 (Sections 1-9 and 11-13 extend to NI) which deals with all types of fraudulent activity, outlines the various definitions of fraud and addresses dishonesty of obtaining services.</p> <p>It sets out 3 main types of fraudulent activity:</p> <ul style="list-style-type: none"> • fraud by false representation; • fraud by failing to disclose information; and • fraud by abuse of position. <p>Article 25(3) of the Housing (NI) Order 1983 sets out the condition that tenants of social housing must meet: that the tenant occupies the house as their only or principal home; or where the tenancy is a joint tenancy, that at least one of them occupies the house as their only or principal home.</p> <p>Article 27(3) of the Housing (NI) Order 1983 sets out that where a tenant wishes to terminate the tenancy they must (a) notify the landlord of their intention to do so; and (b) specify a date on which the tenancy is to terminate.</p> <p>Article 41 of the Housing (NI) Order 1983 sets out the rights of the landlord where a secure tenancy appears to be abandoned. It outlines procedures for landlords regarding secure tenancies in Northern Ireland. It allows landlords to enter a property if they have reasonable grounds to believe it is unoccupied and the tenant does not intend to occupy it as their home. The landlord must serve notice to the tenant, requiring them to inform the landlord in writing within four weeks if they intend to occupy the property. If the tenant does not respond within this period, the secure tenancy may be terminated.</p> <p>Article 19A of the Housing (NI) Order 2003 covers the rights of the landlord when an introductory tenancy appears to be abandoned. It allows landlords to enter a property if they have reasonable grounds to believe that the property is unoccupied and that the tenant does not intend to occupy it as their home. The landlord must serve notice on the tenant within a specified timeframe, requiring them to inform the landlord in writing within four weeks if they intend to occupy the property. If the tenant does not respond within this period, the introductory tenancy may be terminated.</p>

In addition, the Housing Executive has a further statutory power which relates to its homelessness duties specifically. **Article 17 of the Housing (NI) Order 1988** sets out the consequences for an applicant who is being assessed under the Housing Executive's homelessness duties if they provide false statements, withhold information or fail to disclose a change of circumstances to the Housing Executive. This legislation states that anyone found guilty of making a false statement, withholding information or failing to disclose a change of circumstances in order to convince the Housing Executive that either they, or someone else is homeless, threatened with homelessness or have a priority need, commits an offence and is liable to an appropriate fine.

At present, in the absence of specific legislation criminalising certain forms of social housing tenancy fraud and the additional investigatory powers this could afford, social housing landlords primarily address tenancy fraud and misuse by recovering properties by civil means.

Although there is no specific legislation relating to Registered Housing Associations investigating tenancy fraud, RHAs have the statutory powers that are available to social housing landlords to recover properties, and they are required to investigate tenancy fraud in line with the Department's Housing Association Guide.

What is the cost of tenancy fraud?

The cost of tenancy fraud in the UK has been estimated to be approximately £42,000 per fraud case³. This includes property

value, legal, investigative and administrative costs, as well as the substantial cost of keeping prospective tenants in temporary accommodation.

The Housing Executive has since refined this methodology to better reflect its own housing stock, arriving at a current estimated cost of £28,450 per fraudulent tenancy. Housing Associations in Northern Ireland are currently considering their own calculations.

In 2024/25, based on the estimate of approximately £28,450 per case, the 169 confirmed cases in the Housing Executive homes and 10 confirmed cases in Registered Housing Associations, came at an estimated cost of over £5 million. This increases to £8 million if the 105 Registered Housing Association recoveries due to abandonments (which may not involve fraud or misuse) are included.

Considering the 1,437 social homes recovered following tenancy fraud investigations in Northern Ireland between April 2020 and March 2025, the average total cost per year due to social housing tenancy fraud and misuse can be estimated to be in the region of £9.9 million.

But this does not consider the cost of cases which have not been detected. The actual cost of tenancy fraud is expected to be much higher.

Why does tenancy fraud matter?

Demand for social homes greatly exceeds supply and as a result, social housing waiting lists are growing. Many people are waiting

3 Alan Bryce / Tenancy Fraud Forum / Fraud Advisory Panel; "Lost Homes, Lost Hope: Social Housing Fraud in England – recovering social homes for those in need", April 2023, p9, at <https://www.fraudadvisorypanel.org/reports-research/>

a long time for a social home and so it is important, now more than ever, to ensure social housing properties are being occupied only by those who are entitled to them.

Weak responses to social housing tenancy fraud can undermine the fairness, efficiency and integrity of the housing system.

Tenancy fraud comes at a considerable financial cost to the taxpayer. Tenancy fraud also carries a social cost. It deprives individuals and families who are in genuine need of affordable housing from accessing a home. Households on the waiting list in high levels of housing need are being impacted by homes that are not returned to social housing landlords for re-allocation.

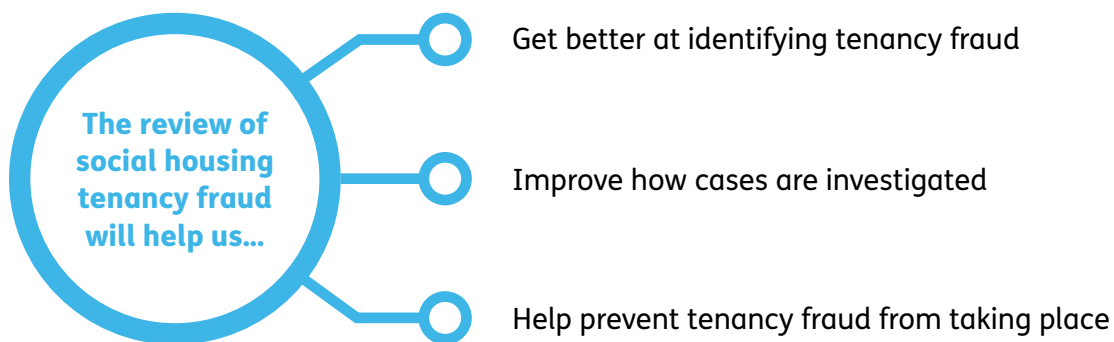
Unchecked misuse of social housing means that households spend longer on the waiting list sometimes in unsuitable accommodation, or in temporary accommodation.

Tenants have also described the negative impact abandoned houses have had on their neighbourhoods – damaging the overall appearance and desirability of the area as well as increasing the risk of antisocial behaviour or vandalism.

Review of Social Housing Tenancy Fraud

The Department commenced a review of Social Housing Tenancy Fraud in 2024, working closely with the Housing Executive, all Registered Housing Associations as well as other partners to decide on how best to work better together to tackle tenancy fraud.

The main aims of the review are to share best practice, raise awareness; and develop a clear, coordinated, and effective approach among social housing landlords. This will help us to better tackle social housing tenancy fraud.



Review: Aims and Objectives

We want to ensure that tackling social housing tenancy fraud will have positive impacts and outcomes:

What will the Review of Social Housing Tenancy Fraud do for you?

For **members of the general public** the review aims to:

- raise awareness and encourage honesty
- build trust and ensure that reporting will be **anonymous** and treated **confidentially**
- promote fairness across social housing allocations
- ensure better use of taxpayers' money

For **social housing landlords** the review aims to:

- ensure properties will be rightfully occupied
- reduce pressures and costs associated with temporary accommodation
- improve public confidence

For **advice services** the review aims to:

- raise awareness of the impact tenancy fraud has on society
- encourage joined-up approach to work better together
- Promote greater understanding of what tenancy fraud is, and what it definitely is not

For **tenants** the review aims to:

- reassure individuals that it's about promoting fairness across social housing allocation
- encourage honesty
- raise awareness and promote greater understanding of what tenancy fraud is, and what it definitely is not
- protect the most disadvantaged in society



For **local representatives** the review aims to:

- change the culture in relation to tenancy fraud; increasing fairness and transparency
- reduce the demand and spend on temporary accommodation
- help address the current housing crisis

For **public bodies** the review aims to:

- encourage joined-up approach to working better together
- raise awareness to deter, detect and prevent tenancy fraud using a consistent and transparent approach

Review: Engagement and consultation

As part of the review, the Department has established a Tenancy Fraud Oversight Group which meets quarterly and includes representatives from the Housing Executive, the Northern Ireland Federation of Housing Associations, several Registered Housing Associations, and key business areas within the Department for Communities.

The Department has built strong working relationships with the Tenancy Fraud Forum UK and the Housing Executive and engaged with UK Housing Regulators and the Information Commissioner's Office and continues to work with tenant representatives from the Housing Policy Panel.

The Tenancy Fraud Review was informed by the 2014 Public Accounts Committee (PAC) report and the preceding Northern Ireland Audit Office (NIAO) report in 2013 on tenancy fraud in Northern Ireland.

The 2014 Public Accounts Committee Report recommended strengthening local legislation in relation to social housing tenancy fraud. It further recommended the introduction of formal data sharing protocols between social housing landlords and utility companies to support the detection and investigation of tenancy fraud.

Both reports recommended the establishment of a single, dedicated tenancy fraud investigation team to provide services to the Housing Executive and the Registered Housing Association sector. This approach was considered to offer economies of scale and improved efficiency.

Following publication of the reports, the

Housing Executive established a dedicated team to investigate tenancy fraud cases for its own tenants, developing significant expertise over time. RHAs have continued to conduct their own investigations. However, existing legislation does not allow the Housing Executive to undertake investigations on behalf of RHAs. As a result, it was not possible to create a single shared investigation team to provide investigation services across both sectors.

In February 2025, the Department published outcomes from an early, targeted consultation to progress the above recommendation. The consultation outlined the following two key proposals to allow the Housing Executive and Registered Housing Associations to work better together on investigations into Tenancy Fraud:

1. To provide the Housing Executive with the power to undertake tenancy fraud investigations on behalf of the Registered Housing Association (RHA) sector and to charge RHAs for that service
2. Provision to enable any person to disclose any information in relation to Tenancy Fraud

Stakeholder information sessions were held as part of the targeted consultation.

In response to that consultation:

- 100% of respondents agreed/strongly agreed that the Housing Executive should be able to carry out tenancy fraud investigations on behalf of RHAs.
- General support (87.5%) was given to allow the Housing Executive to charge Housing Associations for a tenancy fraud investigation service.

Responses showed full support from respondents to enable any person to disclose any information for the purposes of tenancy fraud investigation, with some further considerations.

As a first step, and in response to the Public Accounts Committee's recommendation, the Department has included a tenancy fraud clause in the Department of Finance's Administrative and Financial Provisions Bill, which is currently progressing through the Northern Ireland Assembly. This clause will address longstanding recommendations from the Public Accounts Committee and the Northern Ireland Audit Office by enabling a single tenancy fraud investigation team to provide services to both the Housing Executive and the Registered Housing Association sector. It will allow the Housing Executive's established tenancy fraud investigation team to carry out investigations, if requested by Associations, on the Associations' behalf and to charge for this service. For the purposes of this legislation, data sharing will be limited to two-way data sharing between the Housing Executive and the Registered Housing Associations.

It is expected that the tenancy fraud provision in the Administrative and Financial Provisions Bill will come into effect shortly after the Bill is passed.

Further work is underway to establish policies and procedures to enable the Housing Executive's Tenancy Fraud Unit to investigate cases.

Review: Engagement and Workshops

As part of the Department's ongoing review, three stakeholder workshops were held to explore collaborative approaches to address social housing tenancy fraud.

The first workshop focused on identifying types of tenancy fraud and establishing a shared definition among stakeholders.

The second workshop was focused on how current legislation could be improved to tackle tenancy fraud better. At that workshop guest speakers from the Tenancy Fraud Forum UK shared insights from their experiences of working on the Prevention of Social Housing Fraud Act 2013 (PoSHFA), which applies to England and Wales.

The third workshop focused on current processes and procedures in relation to tenancy fraud across the Housing Executive and Registered Housing Associations.

The Department also hosted a Social Housing Tenancy Fraud Conference in November 2025, attended by representatives of the Tenancy Fraud Forum UK, the Housing Executive, Registered Housing Associations, and stakeholders. This conference showcased tenancy fraud best practice, including the legislation in England and Wales.

Prevention of Social Housing Fraud Act 2013 in England and Wales

The Prevention of Social Housing Fraud Act 2013⁴ (PoSHFA) strengthened the powers of social landlords by making

4 The full Act can be accessed through the following link: **Prevention of Social Housing Fraud Act 2013**. Alternatively, a House of Commons Library research paper which explains the Act can be accessed through the following link: **Prevention of Social Housing Fraud Act 2013 - House of Commons Library**.

the unlawful subletting of an entire dwelling for profit, a criminal offence. The main objectives of the Act were to:

- deter tenants from committing social housing tenancy fraud;
- incentivise those already committing social housing tenancy fraud to stop their fraudulent activities;
- increase the powers of social housing landlords to investigate social housing tenancy fraud; and
- increase the numbers of recoveries of fraudulently used socially rented homes.

The Act:

- created new criminal offences of unlawful subletting in social housing;
- provided powers to prosecute in cases of unlawful subletting;
- enabled courts to order the recovery of any profit made from unlawful subletting from tenants; and
- made changes to ensure that social tenants who unlawfully sublet the whole of their dwelling cannot subsequently regain their security of tenure.

The PoSHFA primarily addresses unlawful subletting. It does not cover other types of tenancy fraud and misuse such as application fraud. The Act also made exemptions where subletting occurs due to violence or threats of violence, or where the person occupying the property may be eligible for assignment of a tenancy (e.g. a spouse, civil partner or co-habitee).

Provisions to request financial data were also built into the legislation. The legislation empowers social housing fraud investigators to access relevant data to support their investigations. It also grants local authorities in England and Wales the authority to request information from third parties including banks, utility providers and credit card providers. Telecoms data is covered by the Investigatory Powers Act. There are penalties for the institutions if they do not comply with the requests, although up until now, it is understood that these have not been invoked.

The Act also introduced Unlawful Profit Orders enabling social housing landlords to recover profits gained from illegally subletting. Unlawful Profit Orders can also be used for civil cases and bolted on to possession proceedings at no extra cost. The provisions allow social housing landlords to use best estimates, which gives some flexibility for example where payments were made in cash. These Orders can ensure that the money is returned to the social housing landlord.

This Act has raised the profile of tenancy fraud, strengthened fraud detection, allowed investigations to take place at a criminal level using interviews under caution and strengthened powers relating to data requests. The new penalties, including potential prison sentences, also increased the deterrent factor. Before the Act came into effect, if a tenant was caught subletting, the only thing they lost was the property, which they were not living in.

Tenancy Fraud Review: What have we learned so far?

So far, engagement and research have highlighted several key issues as well as areas where improvements are required.

Data collection, data sharing and processes

- Tenancy Fraud data collection needs to be more consistent and delivered in a format which can be easily understood. There is a need for consistent, agreed definitions of what tenancy fraud is and which types of activity are considered to be tenancy fraud.
- Suitable training must be provided for staff involved in suspected tenancy fraud cases.
- Policy and practice on Tenancy Fraud should be relatively consistent across all Housing Associations.
- Data sharing issues must be addressed. Investigators may find that they cannot get access to utility information, bank statements etc. to provide evidence of whether or not the tenant who was allocated the social home is living at that address.
- The practice of joining up investigation resources with social security benefit investigators should be more widespread, where it is relevant.
- The Housing Regulator should more actively consider how effective Housing Associations are at addressing tenancy fraud.

Tenancy Fraud Awareness

- Tenancy fraud and misuse is often overlooked because many people do not fully realise the real impact it has.
- Better tenancy fraud awareness is needed.
- Ways to report tenancy fraud and misuse should be publicised to encourage a culture where it is acceptable to report a concern.

Legislation

- There is a need for more robust legislation, specifically targeted at tenancy fraud.
- There is a need for proportionate sanctions for varying levels of tenancy fraud.

Taking into account lessons learned from the impact of the Prevention of Social Housing Fraud Act in England and Wales, partners in Northern Ireland have indicated support for:

- Creating a criminal offence of subletting;
- Mandatory data sharing with certain third-party organisations (e.g. banks and utility companies); and
- The introduction of Unlawful Profit Orders.

Support and Protection

- There is a need to ensure safeguarding issues are considered for both housing professionals and for people reporting tenancy fraud and misuse.
- Vulnerable people, particularly where they are suspected of potential tenancy fraud or misuse, must be treated appropriately, professionally and with empathy during investigations.

- Victims of domestic abuse and forms of exploitation, including so-called ‘cuckooing’ (where a tenant has their home taken over by others for criminal acts (e.g. drug dealing)) must be protected and supported.

This has informed proposals for:

1. A new, strategic approach to tackling tenancy fraud and misuse, with three key objectives:

- (i) to raise awareness about tenancy fraud and misuse;
- (ii) to strengthen landlords’ powers to tackle it; and
- (iii) to put measures in place to protect and support victims of such fraud and misuse.

2. New legislation to tackle social housing tenancy fraud, along similar lines to that in place in England and Wales, which will:

- Create new criminal offences relating to sub-letting a social home;
- Enable penalties for these criminal offences of either fines or imprisonment;
- Enable courts to make unlawful profit orders following conviction or through separate civil proceedings, which will allow social housing landlords to recover any profits made through sub-letting;
- Put in place powers to share or require information from organisations to assist tenancy fraud investigations, with penalties for organisations if they do not comply; and
- Allow for exemptions in defined circumstances, namely (a) where the person occupying the home is entitled to apply to a court for a right to occupy the home or be assigned the tenancy or (b) where someone is fleeing violence or is a victim of violence.

Proposal 1:

An overarching
strategic approach
to Social Housing
Tenancy Fraud and
Misuse

4. Consultation on the proposals

Proposal 1: An overarching strategic approach to social housing tenancy fraud and misuse

We propose an overarching, long-term strategy for how the Department and its partners – particularly the Housing Executive and Registered Housing Associations – tackle tenancy fraud and misuse.

It is proposed that this approach will include:

- objectives (what we aim to do);
- outcomes (what we aim to achieve);
- performance measures (which actions are measured); and
- success measures (what impact do those actions have?).

Subject to the responses received on this consultation, a strategy along these lines will be prepared and published by the Department. The strategy will govern the overarching approach to tenancy fraud by the Housing Executive and Registered Housing Associations in Northern Ireland.

Objectives: what we aim to do

There are three key objectives for the proposed strategic approach:

1. to raise awareness and understanding of tenancy fraud and misuse;
2. to strengthen landlords' powers to tackle it; and
3. to put measures in place to protect and support victims of such fraud and misuse.

The aim is a Department for Communities strategy and action plan covering the whole social housing sector and comprising these three objectives with performance measures (as proposed below) for each, against which the Department can regularly report and publish.

Objective 1: To Raise Awareness and understanding of Tenancy Fraud and Misuse

Raising awareness of tenancy fraud and misuse, and its impact, is key to allowing the very serious consequences to be fully understood. If people understand just how serious tenancy fraud and misuse is and what impact it has, they are generally more likely to report it.

We must ensure tenants and the wider public understand what tenancy fraud and misuse is, why we need to tackle it, and how they can report it. It is essential that people feel safe and empowered to report suspicions of tenancy fraud and misuse, understand why they should do so and be assured that their concerns will be investigated in a fair and sensitive way.

Objective 2: to strengthen landlords' powers to tackle tenancy fraud and misuse

The current and proposed legislative changes in the Administrative and Financial Provisions Bill and in Proposal 2 of this consultation will provide a clearer framework for landlords to undertake prevention, detection and reporting of tenancy fraud and misuse.

Increased powers for landlords to act on concerns will enable them to tackle fraud – particularly complex cases – and recover properties more effectively.

Objective 3: to put measures in place to protect and support victims of such fraud.

Tenancy fraud and misuse can negatively affect a wide range of individuals and groups. Victims may include:

- people unknowingly or coerced into renting a social home from someone who is not entitled to rent it, or people who may abandon their home due to violence, threats or fear of violence, financial insecurity or vulnerability;
- children and other family members of the person committing tenancy fraud;
- people fleeing domestic abuse;
- people on the Common Waiting List;
- homeless families in temporary accommodation who will wait longer for a permanent social home; and
- neighbours and communities where community stability is undermined.

Supporting and protecting victims of tenancy fraud and misuse contributes to the safety and well-being of a community by ensuring that housing is available to those who truly need it. It is a collective responsibility that requires the co-operation and support of various stakeholders, including social landlords, law enforcement and the community. Support to victims can take several forms, depending on the need, including:

- Legal support – advice for those misled into fraudulent arrangements;
- Housing assistance – help to secure safe, appropriate and lawful accommodation; and
- Safeguarding and wellbeing support – such as counselling, family support or referrals to specialist services.

There may be opportunities to improve how victims of tenancy fraud and misuse are supported. These could include:

- Clearer guidance for social landlords about identifying and assisting victims;
 - Better signposting to specialist services (e.g. domestic abuse, homelessness, financial advice, specialist mental health support, independent advocacy services);
 - Formalised referral pathways between the social housing landlord and support organisations;
 - Access to emergency, safe accommodation, for example through the Housing Executive's homelessness services, for those displaced by tenancy fraud or misuse;
 - Greater public awareness about the risks and signs of fraudulent rental arrangements;
-

- Support through the family courts system; and
- Close working between relevant government departments, most notably the Department for Communities, the Department of Justice and the Department of Health.

The proposed objectives will support achievement of the following outcomes:

Outcomes: what we aim to achieve

Outcome 1: Tenancy fraud and misuse is actively being prevented

This outcome focuses on stopping tenancy fraud and misuse before it happens.

Performance Measures: which actions are measured

The proposed performance measures would include regular and consistent reporting by social housing landlords (the Housing Executive and Registered Housing Associations) to the Department, to ensure:

- Robust identity and eligibility checks (including photo ID) at the point a tenancy is allocated to ensure only eligible households are granted tenancies at the point of entry.
- Consistent use of standard pre-tenancy verification checks by landlords to demonstrate a consistent and systematic approach to fraud prevention.
- Use of follow-up or periodic occupancy checks carried out during the life of a tenancy to help detect changes in circumstances or misuse early, reducing the risk of long-term fraud.

- Evidence of policies and procedures in place for tenancy verification and review to provide assurance that preventative measures are embedded in landlord practice.

Success Measures: what impact do the actions have?

Effective prevention of tenancy fraud should result in:

- Fewer instances of tenancy fraud and misuse being identified after a tenancy has been granted, which would indicate that effective prevention activities are working.
- Lower proportion of tenancies requiring formal investigation, which would suggest that fraud is being prevented rather than corrected.
- Increased confidence that homes are allocated to eligible households which would support fairness and public confidence in the social housing system.
- Reduced need for enforcement or recovery action later in the tenancy which would demonstrate value for money and a proportionate approach.

Reporting by the Department will include the findings from these preventative measures.

Outcome 2: Actions to tackle tenancy fraud and misuse are effective and evidence-based

This outcome focuses on ensuring tenancy fraud and misuse is identified, investigated and addressed in a fair and proportionate way.

Performance Measures: which actions are measured

The proposed performance measures would include regular and consistent promotion and reporting by (i) social housing landlords in respect of performance against their own strategic objectives and action plans, to the Department; and (ii) by the Department in respect of its actions within the overarching strategy to ensure:

- Clearer ways for the public to report suspected fraud and misuse through a dedicated webpage and phone number which should support early identification of potential fraud.
- Follow-up and investigation by landlords to ensure concerns are taken seriously and assessed fairly using evidence.
- Referral of more complex cases to a specialist investigation team which should enable resources to be targeted at more complex cases.
- Use of statutory powers where fraud is confirmed to provide assurance that fraud is being addressed appropriately.
- Appropriate data sharing and use of information to prevent and detect fraud should help build a fuller picture of risk while complying with legal requirements.

Success Measures: what impact do the actions have?

Effective action to tackle tenancy fraud and misuse using these performance measures should result in:

- An increase in confirmed cases of tenancy fraud or misuse in the short to medium term, including more complex cases, leading in the short to medium term to more properties being recovered.
- In the short to medium term, an increase in the number of cases being progressed to conclusion where appropriate, including the use of statutory powers under the new legislation.
- Clear evidence that investigations lead to meaningful outcomes, rather than unresolved cases.
- Resolution of cases resulting, where appropriate, in homes becoming available for rightful occupation.

Reporting by the Department will be proportionate, and may include progress against actions to tackle tenancy fraud within the overarching strategy and action plan, for example relating to promotion of methods for the public to report suspected fraud, the numbers and outcomes of complex cases, and the use of statutory powers when in place.

Outcome 3: Interventions to tackle tenancy fraud and misuse are regularly monitored and reviewed

This outcome focuses on strengthening the effectiveness of fraud prevention and detection by systematically monitoring activity, outcomes and trends across the social housing sector.

Performance Measures: which actions are measured

The proposed performance measures would include regular and consistent monitoring by social housing landlords and reporting to the Department to enable:

- A clear line of sight across the number of tenancy fraud and misuse investigations to their outcomes, including number of homes recovered. Tracking the number of investigations will ensure that suspected tenancy fraud and misuse cases are being identified, tracked and actively progressed on a regular basis.
- Departmental monitoring of tenancy fraud and misuse activity across the social housing sector. This would bring together information from social housing landlords on the number of suspected fraud and misuse cases identified, investigations undertaken, enforcement actions progressed and homes recovered.
- Three yearly review of fraud and misuse data trends to inform policy and targeted action to tackle tenancy fraud. This should ensure that monitoring and review are systematic rather than ad hoc, meeting the requirement that interventions are regularly reviewed.

Success Measures: what impact do the actions have?

Effective action to tackle tenancy fraud and misuse using these performance measures should result in:

- Availability of robust and detailed data to support meaningful analysis, which would enable the Department to monitor activity, assess effectiveness, identify trends and undertake meaningful review of interventions.
- Evidence and analysis being used to improve prevention and detection approaches. Success would mean that tenancy fraud and misuse evidence and analysis are actively influencing how prevention and detection activity is designed, targeted and delivered rather than being collected for reporting purposes only.
- Regular review of the strategic approach to tackling fraud and misuse informed by data and trends. Success would mean that the Department's overall approach to tackling tenancy fraud is not static but is systematically reviewed, evidence led and responsive to emerging risks and learning.

Reporting by the Department will include the findings of this monitoring activity and associated reviews to inform future approaches.

Your views are invited in order to shape the overarching strategy. These are the questions included in our survey, provided here to help form your thinking. Page 5 of this document sets out the various ways you can respond to this consultation.

1. Do you agree with the three key objectives in the proposed strategic approach to tackling social housing tenancy fraud?

Raise awareness and understanding of tenancy fraud

Strengthen landlords' powers to tackle it

Protect and support victims of such fraud

2. Do you agree with the three proposed outcomes, as the focus of our strategic approach:

Tenancy fraud is actively being prevented

Actions to tackle tenancy fraud are effective and evidence-based

Interventions are regularly monitored and reviewed

3. Do you agree with the performance measures and reporting arrangements in our proposed approach?

4. Do you think there are any additional issues, actions or considerations that should inform the strategic approach to social housing tenancy fraud?

Proposal 2:

To strengthen
legislation to tackle
social housing
tenancy fraud

5. Consultation on the Proposals

Introduction to Proposal 2: To strengthen legislation to tackle social housing tenancy fraud

We propose new primary legislation in order to strengthen the response to tenancy fraud. Our proposals are informed by the Prevention of Social Housing Fraud Act 2013, which applies to England and Wales. Engagement with stakeholders including the Tenancy Fraud Forum has identified lessons learned from this legislation, which informs the proposals below.

It is proposed that this legislation will include:

2.1 In defined circumstances, sub-letting should be made a criminal offence

This should include a distinction between two types of criminal offences:

- i) fraudulent use of a social home where the tenant knows they are doing something wrong; and
- ii) fraudulent use of a social home where the tenant acts dishonestly.

Of these, the second one is the more serious offence.

It is also proposed that the legislation should include that:

2.2 There should be clear penalties in law where subletting to the definition of a criminal offence has occurred

This should include powers to recover profits from fraudulent use of a social home, either:

- following a conviction under either of the two offences outlined above, or
- if the social landlord brings a civil action to recover profits.

2.3 Provision to make Unlawful Profit Orders

2.4 Powers to share or require information and creation of an offence for organisations which refuse to provide information

Also proposed are:

2.5 Penalties for the misuse and non-occupation of a social home by the allocated tenant. This includes ineligibility for Social Housing and Homelessness assistance.

2.6 Penalties for other forms of actual or attempted tenancy fraud or misuse. This includes ineligibility for Social Housing and Homelessness assistance.

The objective of strengthening social landlords' powers to tackle tenancy fraud will contribute to the proposed Outcome 2, "actions to tackle tenancy fraud are effective and evidence-based", by enabling landlords to investigate all cases, including the most serious or complex cases,

and where appropriate, to recover the costs of fraudulent use and of investigations via recovery of profits from the tenant.

These new offences would require evidence that would be considered by a court either in a criminal context or a civil context. Social landlords must already apply to a county court if they are seeking an order for possession of a social home.

Proposal 2.1 In defined circumstances, sub-letting should be made a criminal offence

Subletting of a social home is where a tenant rents their allocated social home to another person for material, financial or other gain, without the landlords' written consent. Key selling is a type of subletting where a tenant sells their keys to another person.

The primary distinction between subletting (including key selling) and other forms of misuse involving non-occupation by the tenant, is that sub-letting involves a material, financial or other gain for the tenant.

We propose that legislation is created for Northern Ireland to make sub-letting a social home a criminal offence. This would be similar to sections 1 and 2 (unlawful subletting) of the Prevention of Social Housing Fraud Act 2013 in England and Wales.

Do you agree that sub-letting a social home should be a criminal offence?

Importantly, these new and specific criminal offences would only apply where the tenant has ceased to occupy the property as their principal or only home. This would mean that a tenant living in the home and sub-letting a part of the property **would not** be a criminal offence.

Do you agree that sub-letting should only be a criminal offence where the tenant no longer occupies the property?

In these circumstances, where the tenant has ceased to occupy the property and has sublet the home, action would be taken against the tenant. The person occupying the home via subletting would usually be treated as a victim of fraud, unless there is clear evidence to indicate otherwise.

Two scales of criminal charges

The Prevention of Social Housing Fraud Act 2013 (PoSHFA) (which applies to England and Wales) created two criminal offences in relation to unlawful subletting of secure tenancies of social housing. The first offence is a "knowledge only" offence which occurs when a tenant sublets their property with knowledge that it is against their tenancy agreement. The second offence involves subletting with the intent to deceive.

The PoSHFA makes a distinction between these two types of unlawful subletting:

1. Ceasing to occupy the home and subletting the whole house (or part of the house, without the landlord's consent), if the tenant **knows** that this is a breach of the tenancy; and
2. Ceasing to occupy the home and subletting the whole house (or part of the house, without the landlord's consent), **dishonestly**.

The first is the **“knowledge only”** offence, which is committed where a tenant ceases to occupy their home and sublets all or part of it knowing that this breaches the terms of their tenancy agreement. In this scenario, the wrongdoing lies in the tenant's awareness that they are breaking the rules. There is no requirement for the landlord or prosecuting authority to show that the tenant acted with any intention to mislead or conceal their actions; simple knowledge of the breach is sufficient. This offence captures situations where tenants may engage in unauthorised subletting but without taking active steps to deceive their landlord or obtain significant financial advantage.

The second offence is the **“dishonesty”** offence, which applies where a tenant sublets the property not only in breach of their agreement but does so **dishonestly**, meaning with an intention to deceive or in circumstances that would be regarded as dishonest by ordinary standards. This covers more serious conduct, such as concealing the sublet, providing false information to the landlord, or profiting from the property in a calculated or deliberate way. The requirement to prove dishonesty places this offence at a higher threshold, recognising the greater level of culpability associated with fraudulent behaviour.

As a result, this offence attracts more severe penalties and is aimed at tackling deliberate exploitation of social housing stock.

The type of dishonesty intended in the PoSHFA, is knowledge that a reasonable and honest person would consider the action in question, to be dishonest. This offence carries a greater penalty in the PoSHFA than the “knowledge only” offence. Therefore, the “dishonesty” offence will be a question of determining facts but is more likely to be found where the tenant has made a profit from the transaction, for example by charging a private market rent for the property.

Two exemptions from the ‘knowledge only’ offence

In England and Wales, the PoSHFA makes two exemptions for the ‘knowledge only’ criminal offence:

- where someone is fleeing violence or threats of violence; or
- where the person occupying the home is someone who is entitled to apply to the court for a right to occupy the home, or have the tenancy assigned to them (for example, a spouse, civil partner, etc.)

These defences are not available where dishonesty can be established by the court.

It is proposed that we provide for similar exemptions for the ‘knowledge only’ criminal offence, for victims of violence or someone with an entitlement to apply for a right to occupy the home. This means that there would be no criminal action taken against them for having knowledge of subletting the home.

A different approach is proposed where there is evidence to consider the “dishonesty” offence. Where dishonesty can be established, this criminal offence should still be available.

This is because, for the prevention of further fraud, it may in some circumstances be necessary to establish through the court whether a person in either of the two exemption categories has committed the “dishonesty” offence, for example, to ensure that a social home is not subsequently let to a person with established dishonesty regarding the tenancy.

It is essential to be mindful of the wider circumstances surrounding violence or threats of violence and the impact on victims. It is assumed that cases where a victim is charged with the “dishonesty” offence may be exceptional. However, it is also the case that, in exceptional circumstances, it may be necessary for the court to establish where there has been dishonesty in the fraudulent use of the home.

Objective 3 of the strategic approach to tenancy fraud, to put measures in place to protect and support victims of such fraud, remains the priority for assisting and supporting victims of fraud.

Do you think that the proposed new criminal offences should distinguish between ‘knowledge only’ and ‘dishonesty’?

Do you think there should be an exemption made, in cases where the person occupying the home is someone who is entitled to apply to the court for a right to occupy the home, or to have the tenancy assigned to them. (For example, the tenant’s current or former spouse, civil partner or co-habitant, or a child for whose benefit the tenancy could be assigned)?

Do you agree there should be an exemption made where someone is fleeing violence and/or domestic abuse?

Proposal 2.2 There should be clear penalties in law where subletting to the definition of a criminal offence has occurred

Legislation in England and Wales provides that someone convicted of an offence under the “knowledge only” offence could be fined. Someone convicted under the “dishonesty” offence could be liable either to a fine or imprisonment. Depending on the type of conviction, the period of imprisonment could be up to 2 years.

The legislation requires that prosecution can take place within 6 months of sufficient evidence coming to the prosecutor’s attention, and not more than 3 years after the offence or the last date when the offence was committed.

It is proposed that similar, clear penalties are defined in legislation for Northern Ireland.

Do you think a system of penalties for unlawful subletting, similar to those in England and Wales, should be introduced in Northern Ireland?

Proposal 2.3 Provision to make Unlawful Profit Orders

Unlawful Profit Orders allow for the recovery of profits made from tenancy fraud either following conviction or through separate civil proceedings.

Legislation in England and Wales enables a court to make an Unlawful Profit Order, which requires the tenant to pay the landlord an amount representing the profit the tenant made through the tenancy fraud. The amount must be appropriate, based on the evidence and representations made in the court.

The legislation sets out how the Unlawful Profit Order is calculated:

- The best estimate of how much the tenant received through the fraud
- Minus any rent or service charges paid by the tenant to the landlord.

This can be required in addition to a fine.

The legislation also allows social housing landlords to take civil action to put an Unlawful Profit Order in place. The conditions for this are different to the provision for criminal cases.

A civil action taken by a landlord, under the PoSHFA in England and Wales, requires that the tenant has ceased to occupy the house as their only or principal home, sublet the whole house (or part of the house, without the landlord's written consent) and has received money from subletting.

Do you agree with the proposal to legislate for Unlawful Profit Orders so that a tenant who makes a profit from social housing tenancy fraud has to repay the profit made?

Proposal 2.4 Powers to share or require information and creation of an offence for organisations which refuse to provide information

The 2014 Public Accounts Committee Report recommended strengthening local legislation in relation to social housing tenancy fraud, particularly in relation to data sharing arrangements. It further recommended the introduction of formal data sharing protocols between social housing landlords and utility companies to support the detection and investigation of tenancy fraud.

We propose to create powers to share or require information as well as creating an offence for organisations in Northern Ireland who refuse to provide that information.

2.4(a) Powers to share or require information

Social housing landlords often cite their lack of access to data as a significant obstacle

that prevents them detecting as many unlawfully occupied social homes as they otherwise could. When conducting social housing tenancy fraud investigations, it is important to be able to link the tenant to another address, which can provide evidence that, for example, shows that the tenant is sub-letting the social home they have been allocated, or that they own a home that they did not declare when applying for social housing. In the case of banks and building societies, account statements can provide evidence of receipt of payments suggesting they are sub-letting for money, and of expenditure suggesting the tenant is making monthly mortgage payments, thereby denoting they own a property.

In Northern Ireland, tenancy fraud investigators use the Data Protection Act 2018 to obtain data from other organisations. The Data Protection Act is the legal framework for the processing of personal data and safeguarding individuals' privacy rights. It is built upon several fundamental principles which guide how personal data should be handled. However, these organisations are not obligated by law to supply this data when asked.

In England and Wales, making subletting a criminal offence has helped social housing landlords to investigate tenancy fraud more effectively. The power to require information allows social housing landlords to approach financial institutions and utility companies directly, which is useful when trying to identify subletting income or costs rather than relying on information provided by the tenant. Telecoms data is covered by the Investigatory Powers Act.

The powers apply to specific legislation including the PoSFHA itself and offences under the Fraud Act 2006 relating to:

- unlawful subletting or parting with possession of a social home;
- an application for a social home;
- assistance in obtaining accommodation;
- a claim to exercise the right to buy a social home; or
- associated offences.

These powers were envisaged to be equivalent to provisions for the investigations of fraudulent claims for social security benefits.

Do you think social landlords in Northern Ireland should be able to compel certain organisations (e.g. banks, utility providers etc), to provide information to support investigations of tenancy fraud?

2.4(b) Creation of an offence for organisations refusing to provide information

We propose to introduce penalties for organisations which do not comply with requests for information for the purpose of assisting with tenancy fraud investigations.

The PoSHFA allows for regulations that will create an offence if an organisation refuses or fails to provide information when requested to do so. Equivalent provision would be necessary here, to support provision of information.

Do you think a penalty should be imposed on any organisation not complying with requests for information which would assist with tenancy fraud investigations?

Proposal 2.5 Penalties for the misuse and non-occupation of a social home by the allocated tenant, including ineligibility for Social Housing and Homelessness assistance

It is important that the measures outlined above are put in place where people are fraudulently profiting from social homes.

However, tenancy fraud is broader than this: it includes abandonment of a home, leaving it empty or liable to fraudulent occupation.

While abandonment has a cost to social housing landlords, it is not proposed to introduce penalties as, by definition, the tenant is out of contact and their whereabouts will be unknown.

However, where non-occupation occurs and the tenant is still contactable but is not using their social home as their only or principal home, this is still tenancy fraud. The home could be made available to a rightful applicant from the waiting list.

Social housing landlords will consider the individual circumstances of each case. For example, the tenant may be away from the property for good reason, such as being in hospital, in which case the property remains their principal home. Social landlords may still require information to establish that tenancy fraud or misuse is not taking place.

However, it is essential that action can be taken by social housing landlords where a tenant is no longer using the property as their principal home, even if they have not sublet it to someone else, and even if they are not receiving any financial or material gain from retaining the property.

Where there is material or financial gain, for example from social security benefits, from retaining a property without occupying it, information can already be shared between the Department and social housing landlords.

Currently in Northern Ireland, if the tenant is not living in the property as their only or principal home, the law allows social housing landlords to recover the property.

Once the property is recovered there may be no further action taken against the tenant. The person must be residing somewhere, so may not expect to be rehoused in a social home after possession action.

However, we propose that where non-occupation has been established and a property recovered, if the tenant does apply for social housing or homelessness assistance at that time, the Housing Executive should be able to consider the established facts and make a decision as to whether the person should be eligible for social housing or homelessness assistance.

Existing legislation means that a person is treated as ineligible for social housing (under Article 22A of the Housing (NI) Order 1981) or homelessness assistance (under Article 7A of the Housing (NI) Order 1988) if they have been guilty of unacceptable behaviour which

is serious enough to make them unsuitable to be a tenant. However, this legislation does not extend to fraud or misuse of social housing.

The Housing Selection Scheme, which determines the allocation of social housing, sets out disqualification criteria which apply to social housing applications, but not to applications for homelessness assistance.

We propose that where non-occupation has been established and a property recovered during court action, this should be made a ground on which ineligibility can be considered. The existing legislation requires the Housing Executive to consider the severity of the unacceptable behaviour, and the applicant's circumstances at the time the application is received, before making a decision on ineligibility.

We will consider whether **new or additional legislative powers** may be needed to ensure that tenants who have recently abandoned or ceased to occupy their home will not be eligible to apply for social housing or homelessness assistance. We will also consider whether, if legislative powers are not required, changes may be required to strengthen the disqualification criteria as set out in the Selection Scheme.

These changes are intended to address repeated attempts at fraudulent misuse of a home. They are not intended to deprive people experiencing vulnerability of access to social housing or homelessness support.

Specific safeguards or exemptions may be required where the abandonment or non-occupation has an underlying cause such as violence, threats of violence or coercion.

The penalties – ineligibility for housing or homelessness assistance – would only apply where the misuse or non-occupation which led to possession action was recent and a person found themselves in circumstances where they needed to apply for social housing or homelessness assistance.

There are provisions within Article 10 of the Housing (NI) Order 1988 that involve support to a person who is found ineligible for homelessness assistance. These include the provision of advice and assistance in securing accommodation, and provision of accommodation for a short period of time until the person can secure accommodation for themselves.

It is always important that each person's individual circumstances are considered on its own merits, and therefore eligibility may be established if the person's circumstances have changed since the fraud or misuse took place.

Do you agree that a person whose social home is recovered because they are not occupying it, should be ineligible, for a period of time, to:

a) apply for social housing?

b) apply for homelessness assistance?

Do you have any comments on penalties for people who do not occupy their social home?

Proposal 2.6: Penalties for other forms of actual or attempted tenancy fraud or misuse, including ineligibility for Social Housing and Homelessness assistance

As explained in the Background section of this consultation, the Housing Executive has statutory powers - which relate to its homelessness duties specifically (Article 17 of the Housing (NI) Order 1988) - that include consequences for an applicant if they provide false statements, withhold information or fail to disclose a change of circumstances to the Housing Executive. Anyone found guilty of making a false statement, withholding information or failing to disclose a change of circumstances in order to convince the Housing Executive that either they, or someone else is homeless, threatened with homelessness or have a priority need, commits an offence and is liable to an appropriate fine.

These powers do not affect an applicant's eligibility for either social housing or homelessness support.

We propose that where it is established that a person has been engaged in actual or attempted tenancy fraud, fraudulent misuse or other misuse that has involved providing misleading, incomplete or deliberately false information, misrepresenting facts or failing to disclose information, this may be considered as behaviour that is serious enough to give rise to an ineligibility decision. Careful consideration must be given to the evidence threshold before reaching a decision.

We will consider whether **new or additional legislative powers** may be needed to ensure

that in these circumstances, the person would be ineligible for social housing and / or homelessness assistance, as set out in Proposal 2.5, for a period of time. We will also consider whether, if legislative powers are not required, changes may be required to strengthen the disqualification criteria in the Housing Selection Scheme, which will impact only on access to social housing (not homelessness support).

It will be essential that these powers are used proportionately, reasonably and always with regard to the circumstances of each individual case, to prevent fraud or address the risk of further fraud.

As with Proposal 2.5, this proposal is not intended to deprive people experiencing vulnerability of access to social housing or homelessness support.

Specific safeguards or exemptions may be required where the actual or attempted fraud or misuse has an underlying cause such as violence, threats of violence or coercion.

Again, each case must be considered on its own merits.

Do you agree that where there has been actual or attempted tenancy fraud or misuse, a person should be ineligible, for a period of time, for:

a) social housing?

b) homelessness assistance?

Do you have any comments on penalties on whether there has been actual or attempted tenancy fraud or misuse?

Next Steps

6. Next Steps

Thank you for taking the time to read this consultation document.

Following the close of this consultation, all responses received will be carefully reviewed and analysed. The evidence and views gathered through this consultation will inform the development of an overarching strategic approach to tackling social housing tenancy fraud.

We will consider the evidence provided, publish a consultation outcome report and determine the way forward. Where appropriate, further engagement with key stakeholders may take place to support policy development.

A new strategic approach, informed by the responses to this consultation, will be brought forward by the Department.

Any decision to introduce new legislation will be developed and progressed in line with the established legislative process and will be considered as part of the Minister's and the Executive's wider legislation programme.

Updates will be communicated through the Department's website and other appropriate channels.

Available in alternative formats.

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