



Tackling Sub-letting and Social Housing Fraud

The prevention of Social Housing Fraud Act 2013 became law in October 2013. The Act provides social landlords with effective tools to tackle sub-letting and social housing fraud. Sub-letting an assured or a secure tenancy is now a criminal offence, for which the tenant and anyone complicit in the offence can be prosecuted. The Act simplifies the legal process for obtaining possession of a property which has been unlawfully sub-let.



Housing Fraud Scenario

Following an anonymous tip-off, you discover that the tenant has sub-let his 3 bedroom house and is living abroad. The current occupants are a young couple with a 3 year old son who have occupied the property for about a year. They were unaware that the tenant had sub-let the property.

The occupants pay rent to the tenant's cousin and there is a tenancy agreement in the name of the occupants and the tenant. Housing Benefit for the property is paid directly to you.

Our Tips for Seeking Possession of the Property

1. Meet with the occupants, obtain their full names and if possible the identity of the tenant's cousin to whom they pay rent. Try to obtain a copy of the tenancy agreement and rent book (if there is one). These documents will be valuable evidence for the Possession Proceedings. Ask the occupants if they will provide witness evidence in support of the Possession Proceedings. They should also be told that a Possession Order would require them to vacate the property.



2. If Housing Benefit has been paid directly to you, then you must protect your income stream. Contact Housing Benefit immediately and inform them the tenant is sub-letting the property. By doing so this should prevent Housing Benefit from clawing back any rent you have received during the tenant's non-occupation of the property.
3. If after making enquiries with the occupants and neighbours there is clear evidence that the property is being sub-let, then you should serve a Notice to Quit on the property to terminate the tenancy. Once the Notice to Quit expires you should commence Possession Proceedings. If the tenancy is an assured or a secure tenancy, there is no need to serve a Notice Seeking Possession as well.
4. Do what you can to obtain the tenant's address abroad and send a copy of the Notice to Quit to him. An email address would also be useful.
5. When issuing Possession Proceedings you should include the tenant and the occupants as Defendants to the claim. If you have evidence of the amount of profit the tenant has made from the sub-letting then you can apply for an Unlawful Profits Order as part of the Possession Proceedings (Section 4 of the Prevention of Social Housing and Fraud Act 2013). Such an Order would compel the tenant to repay any profits he has made from the unlawful sub-letting to you the Landlord.





Related Issues

- a) Advise the occupants to seek assistance from the local authority's Homeless Unit, as they may be assessed as being in priority need for housing as they have a child under the age of 18. You may also wish to inform the local authority of the occupants' situation if they are particularly vulnerable e.g. mental health issues.
- b) Under Sections 1 and 2 of the Prevention of Social Housing Fraud Act 2013 sub-letting a secure or an assured tenancy is a criminal offence and the local authority may prosecute the tenant and his cousin if there is sufficient evidence of their fraud. In addition, the local authority could prosecute the tenant for making fraudulent claims for housing benefit.
- c) The local authority has the power to prosecute anyone involved in the unlawful sub-letting of social housing. However, if the local authority is unable or unwilling to prosecute, then you may consider commencing a private prosecution yourself against the tenant and against his cousin.



About Us

Our Social Housing team have been described as “a cracking team” who provide a “professional and good value service” and “excellent at picking up the finer detail without failing to see the bigger picture” by the Chambers Guide to the Legal Profession.

Our clients say they think our staff are “approachable, well-informed and with a good understanding of our business” and “professional, knowledgeable, efficient, friendly and reliable.” We have worked in the social housing field for the last 20 years and our team and its lawyers have consistently been ranked in independent industry guides for their expertise. We are known for our straight forward and concise advice. Our priority is to achieve the best outcome in terms of management of tenancy issues at an affordable cost.

We specialise in all aspects of housing and asset management, housing policy and procedure, together with property and development.

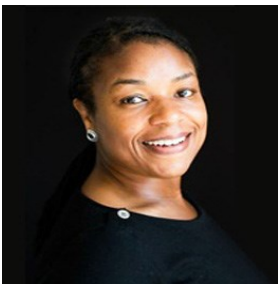
Marsons Solicitors offer a number of value added services to our social housing clients such as free telephone helpline, free review of NOSP's, bulletins, and other services that truly complement the legal services we provide. These are in addition to the seminars and training we offer to all organisations within the social housing sector.

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We provide free 15 minute no obligation advice on housing fraud and sub-letting matters. If you wish to take advantage of this service please contact :

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