



Rochdale
Boroughwide Housing

Delivering Excellent Services –
Building Stronger Communities

Tackling Unlawful Subletting and Occupancy Policy

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Introduction

In 2009 the government announced a national drive to tackle unlawful sub-letting and occupancy of social housing.

Nationally there is a great demand for social housing. With Councils having a significant growth in application, an increase in supply is necessary to respond to this growth.

Social housing is fundamental to the quality of life of families and individuals in Rochdale, who cannot find suitable affordable accommodation in the private sector. Therefore the illegal occupation of such properties can adversely affect the quality of many lives, and restrict the capacity of housing providers such as Rochdale MBC.

Corporate Commitment

All landlords have an important role to play in tackling unlawful subletting and tenancy misuse and communicating these intentions publicly. Delivering on any commitment requires strong governance, corporate commitment and leadership, supported by sufficient resources and organisational capacity, as well as clear lines of responsibility and accountability.

Rochdale Boroughwide Housing (RBH) as managing agent of the Rochdale Council's housing stock is committed to tackling this problem. The company has been asked to undertake this work on behalf of the Council and has set it as a priority.

RBH recognises the importance of tackling unlawful subletting and tenancy misuse and acknowledges its effect on residents on communities. All incidents of unlawful subletting and tenancy misuse will therefore be investigated and action will be taken to tackle it.

RBH is committed to preventing and detecting unlawful subletting and tenancy misuse and has a zero tolerance approach to.

Definition of Unlawful Subletting and Tenancy Misuse

There are many types of tenancy misuse, but the most common are as follows:

- Unlawful subletting, including:
 - subletting the whole property to a single household, or
 - multiple sublets within one property
- Non-occupation by tenant as their principal home
- Wrongly claimed succession – retention of a tenancy following the death or vacation of the tenant following a previous succession, or of a non-qualifying person
- Unauthorised assignment

- 'Key selling' – where the tenant leaves the property and passes on the keys in return for a one-off lump sum payment or favour
- Fraudulently obtaining a social housing tenancy, including
 - Misrepresentation of identity
 - Misrepresentation of circumstances

RBH Tenancy Conditions

The tenancy agreement issued by RBH on behalf of the Council contains the following terms and conditions:

1. For introductory tenants – Paragraph 3.2 states:

- a) 'You cannot ... -Sublet your property.'
- b) 'You cannot ...- Transfer your tenancy to someone else'
- c) 'In certain circumstances we may allow you to do the following – Take a lodger...Apply to exchange your home...You must first get our written permission to do this.'

2. For secure tenants – Paragraph 4.3 states:

You must not assign the property to another person unless:-

- a) The Council consents to the assignment by exchange with another secure or assured tenant who has the consent of his/her landlord.
- b) The Court assigns the tenancy on the breakdown of your marriage.
- c) You assign to a person who would be qualified to succeed to your tenancy if you died immediately before the assignment.

You must not assign, part with possession of or sub-let all or part of the property temporarily or permanently without the prior written consent of the Council. Sub-letting means giving another person the right to live in all or part of the property.

3. For Secure Tenants paragraph 4.4 states:

'You have the right to take in a lodger. You must inform us in writing immediately if you take in a lodger and when a lodger leaves your property.

The people who can live at the property are those that you told us about when you applied for the property. Before anyone else comes to live with you for more than four weeks you must tell us and get our permission first. We may refuse permission if we think that they may break the conditions of this agreement or the property would become overcrowded.

You have the right to exchange your home with another council tenant, a housing association tenant or with a tenant from another Council. We may refuse an exchange if you do not meet certain conditions.

In certain circumstances you have the right to sublet part of your home but you must get our written consent first. You must not sub-let all the property.'

Impact of Unlawful Subletting and Tenancy Misuse

A failure to tackle unlawful sub-letting and occupancy of social housing has a number of effects on both providers and the community:

1. Housing stock will not be put to best use
2. Waiting times for applicants are likely to rise
3. Those in greatest need will be less able to access social housing
4. More residents will spend longer in unsatisfactory, overcrowded or temporary housing
5. It impacts upon the health and education of those living in unsuitable housing conditions
6. There is a greater risk the property will be used for illegal purposes
7. There is a greater risk of damage to the property resulting from modifications to make it more suitable to sub-let
8. There may be added difficulties gaining access to carry out maintenance repairs and gas or electricity servicing
9. Unauthorised tenants who are not aware of their status can be vulnerable to being charged increased rents and deposits and to unlawful eviction and homelessness
10. There is no control over allocation of properties
11. The properties may be the subject of criminal damage or anti-social behavioural problems may emanate from them
12. There is social harm to families living in temporary accommodation which results in transient lives, they are unable to put down roots and find it difficult to establish a stable education for children
13. It is a drain on public resources due to the costs of investigation and court proceedings.

RBH Objectives and Commitment to Reducing Tenancy Fraud

Tackling unlawful subletting and occupancy is a high priority for RBH for the reasons stated. It is committed to improving on past performance in this area to meet the following objectives:

1. To ensure that Rochdale Council's housing stock is put to best use by reducing the number of unlawfully occupied properties in Rochdale
2. To reduce waiting times for applicants by restoring unlawfully occupied properties to the housing stock
3. To ensure that those in greatest need will be less able to access social housing by increasing the housing stock from repossessed properties
4. To reduce the number of residents in unsatisfactory, overcrowded or temporary housing by increasing housing stock from repossessed properties
5. To reduce the risk that the property will be used for illegal purposes by repossessing it as soon as sufficient evidence is available to take legal action

6. To reduce the risk of damage to the property resulting from modifications to make it more suitable to sub-let
7. To take robust action to ensure there is access to carry out maintenance repairs and gas or electricity servicing
8. To ensure that unauthorised tenants who are not aware of their status and who can be vulnerable to being charged increased rents and deposits and to unlawful eviction and homelessness, are protected and given appropriate advice and support
9. To raise public awareness of the incidence and effect of unlawful subletting and occupancy and encourage it's reporting.

Proposed Action

RBH is committed to tackling this problem and the impact stated above, and has or will undertake the following actions:

1. The appointment of a 'Champion' to lead on this project
2. The official launch on 1st April 2010 and subsequent publicity.
3. Posters and leaflets telling residents of Rochdale about the campaign, available throughout Rochdale.
4. The set up of a free telephone fraud hotline and email address for the public to anonymously report alleged tenancy fraud.
5. It has signed up to the Audit Commission's National Fraud Initiative matching service, has provided data to the service when requested and has commenced work investigating the matches identified.
6. It will investigate and take legal action in cases with sufficient evidence to pursue cases to court.
7. It will implement a tenancy audit programme to monitor tenancies more closely, including settling in visits and other regular visits particularly of high risk tenancies.
8. Reports on unlawful subletting and tenancy misuse will be present to RBH Board and the Executive Management Team on a regular basis.
9. A guide for staff will be issued to assist with investigative work.
10. It will provide training to staff on how to spot, investigate and otherwise deal with unlawful subletting and tenancy misuse.
11. It will review its checking procedures on applications for rehousing and subsequent sign up to tenancies, and implement more robust processes e.g. photos, passports, address ID and other ID.
12. A set of 'unlawful subletting and tenancy misuse indicators' will be developed for use by staff and contractors.
13. It will look to set up partnership arrangements for sharing information and dealing with unlawful subletting and tenancy misuse with other registered providers of social housing.