Dear Meg,

PUBLIC ACCOUNTS COMMITTEE ON EXTENDING THE RIGHT TO BUY TO HOUSING ASSOCIATION TENANTS

I am writing on behalf of MHCLG to update the Committee on the steps which the Department is taking to tackle fraud under the statutory Right to Buy, and in the development of the Voluntary Right to Buy scheme. Ahead of the Voluntary Right to Buy Midlands pilot being launched in the summer, we are now able to provide the Committee with a full response to the issues that you have raised.

In your report of April 2016, *Extending the Right to Buy to Housing Association Tenants*, the Committee raised concerns about fraud in relation to the extension of the Right to Buy scheme to housing association tenants. The report recommended that the Department should write to them providing estimates of the amounts of public money lost through fraud and other sharp practice since 2012 under the reinvigorated Right to Buy, and the amounts at risk under the new policy of extending the Right to Buy; providing an assessment of the capacity of, and costs on, local authorities and housing associations to vet all Right to Buy applicants effectively; and setting out its plans for tackling fraud and abuse to protect public money.

**Government activity to limit fraud**

The Government takes fraud very seriously. Subletting council housing is illegal, and legislation ensures anyone found guilty could face fines or custodial sentences. The Prevention of Social Housing Fraud Act, which came into force on 15 October 2013, increases the deterrent to tenants considering cheating the system, enables those who do cheat to be detected more easily and punished more severely, and encourages social landlords to take a more proactive approach to tackling tenancy fraud. The Government also provided £19 million through a counter-fraud challenge fund to help councils tackle the problem.

Local authorities are responsible for prosecuting those tenants that exploit the Right to Buy scheme locally. Measures already in place are designed to catch those that are exploiting
the system. It is made clear to applicants that providing false or misleading information may be regarded as a criminal offence, and result in court action and recovery of the property. There are also clear rules around ‘deferred resale’. A ‘deferred resale’ occurs where tenants and companies enter into an agreement which results in the tenant ceding the property to the company in return for a loan to purchase. Even if the transfer takes place after a number of years, the discount has to be repaid from the date of the agreement, making the practice less attractive. Tenants are required to declare any such arrangement at the outset. Where an arrangement is in place, it may be identified by a legal charge placed on the property by the company to secure its interest. Landlords can then take action to recover the discount.

**Engagement with Local Authorities and Housing Associations**

As part of our work to implement the Voluntary Right to Buy, the Department set up a Working Group with social landlords, lenders and key partners to look in depth at fraud, including how it is already being tackled under the statutory scheme; what more could be done to limit its occurrence; and how best to mitigate its impact. The Working Group looked closely at the tools available to them, including under the Prevention of Social Housing Fraud Act, and at the different approaches to tackling fraud which were trialed under the initial Voluntary Right to Buy pilot. The initial pilot with five housing associations ran from January 2016 to July 2017 and explored a range of fraud prevention measures as part of the application process.

The Working Group also considered the likely level of fraud based on the experiences of their organisations, and reports from bodies such as the Cabinet Office National Fraud Initiative and the CIPFA Counter Fraud Centre and Corruption Tracker which detail detected fraud. These reports have highlighted differences in the reported levels of fraud. However, while the numbers across the reports are not consistent, they suggest that incidents of Right to Buy fraud are reducing with the CIPFA report showing a decrease of 8 per cent from 2016 to 2017.  

Under the reinvigorated Right to Buy scheme, local authorities can keep a portion of the sales receipt to cover their transaction costs, which can include fraud prevention measures. For the initial Voluntary Right to Buy pilot and the Midlands pilot, funding is available to housing associations to cover transaction costs, including the costs of steps taken to prevent fraud. The level of this funding has been agreed with local authorities and housing associations.

The Working Group has put forward a series of recommendations and sets out best practice. The Department welcomes and accepts these, and has committed to using the Midlands pilot for the Voluntary Right to Buy to test them. The pilot begins in Summer 2018, and these measures are included in the operational guidance to housing associations participating in the pilot. The guidance which was published in May has been developed in conjunction with the housing association sector.

The guidance sets out Government’s expectations that pilot housing associations will adopt the recommendations and best practice. The Department will work closely with them on this. Key aspects of the guidance in respect of fraud prevention and reducing sharp practice are:

• A model application form and supporting guidance, including a specific fraud checklist;
• A requirement for applicants to provide more specific information and documentation including evidence of how the purchase will be funded, and of discount eligibility; and
• Suspending applications while suspected fraud is investigated

A full list of the recommendations and best practice is attached as Annex A.

The Department will review the Midlands pilot, which will run until 2020, and assess the effectiveness of these measures to combat fraud in relation to the Voluntary Right to Buy.

For the statutory Right to Buy, a number of local authorities have already put in place the Working Group’s recommendations and best practice. The Department will encourage other local authorities to also adopt these. For those that do, the Department will seek feedback to further support the findings from the Midlands pilot, and consider if any broader measures are required.

As appropriate, the Department will then cement the existing guidance with local authorities and housing associations, or provide refined guidance to support these bodies in limiting the occurrence of fraudulent actions and behaviours, and in mitigating the impact of any fraudulent behaviour which does take place.

SIMON RIDLEY
ANNEX A

Fraud Working Group recommendations and best practice

Tackling fraud and money laundering

- Housing associations and local authorities need time to properly investigate suspected fraud; and there should be flexibility in any timescales to enable this. Housing associations should be able to suspend an application while suspected fraud is investigated.

- There is concern among lenders and social landlords that Right to Buy is supporting or being supported by money laundering. Government should provide guidance on how landlords can require evidence of the source of funding including any deposit.

- Late changes to the people named on a Right to Buy application giving landlords little time to carry out checks can be an indicator of fraudulent activity. Landlords should be able to require that a fresh application is started where the names change on an application.

- Statements from applicants about their income had raised concerns with lenders and landlords that applicants were either claiming higher income level than seem supported by the nature of their employment, or an unusual number of applicants appeared to work for the same employer. Landlords should be able to assess risk by being allowed to request employment information such as National Insurance numbers and employers' details; and should check employer information with Companies House.

- There have been instances under the statutory Right to Buy of tenants being targeted by unregistered companies offering to provide finance for the purchase in return for future ownership of the property. Housing associations should be able to refuse the Voluntary Right to Buy purchase where it is funded by an unregulated mortgage or if the funding is provided by a company that is not authorised by the Financial Conduct Authority.

- It can be difficult and time-consuming for landlords to establish evidence of tenants’ public sector tenancies to provide their eligibility if the tenants have changed landlords or have gaps in their tenure. The onus should be on tenants to provide information/evidence on the length of their tenure.

Helping the investigation process

- There should be a standard framework for applications for the Voluntary Right to Buy including a model application form, standard fraud checklist including likely indicators of tenancy fraud, a requirement to produce original documentation confirming
identity, tenancy and residency history, and specific questions to mitigate the issue of fraud.

- Experience from social landlords has demonstrated the value of thorough checks of Right to Buy applications. Actions such as face-to-face interviews of all applicants including family members and unannounced visits have uncovered evidence of absenteeism and illegal sub-letting. Landlords should undertake appropriate levels of investigation and explore working in partnership with other social landlords and specialist fraud groups to share resources and best practice.

- Landlords are encouraged to make use of all the resources available to them including the Cabinet Office Fraud Initiative and appropriate software packages.

Measures to address undesirable practices

- Anecdotal evidence indicates that tenants with persistent arrears bring their rent accounts up to date immediately where this was required for a Voluntary Right to Buy application to proceed. As the Voluntary Right to Buy should not be seen to reward poor tenant behaviours, the rent account of the tenant should be up to date for 6 months before an application can be made, and kept up to date during processing of the application.

- As the purpose of the Voluntary Right to Buy is to give people who otherwise could not afford it the opportunity for home ownership, tenants who take up the scheme should not be able to sub-let the property without the landlord’s permission. Where they do so, they should be required to repay some or all of the discount they received.

- As the purpose of the Right to Buy is to give people who otherwise could not afford it the opportunity for home ownership, where a tenant owns any residential property they must relinquish ownership of this property before they can take up the Voluntary Right to Buy.

- Feedback from lenders suggested that an indicator of undesirable activity on the part of the tenant was a failure to declare that the property was being purchased under the Right to Buy. The Voluntary Right to Buy application form should contain a declaration that the lender is aware of the discounted nature of the purchase.