

## Decision under Delegated Powers

### Rogue Landlord Database Reform - Consultation Response

#### Officer Requesting Decision

Jacky Oughton, Housing Projects Officer

#### Officer Making the Decision

Alison Simmons, Head of Strategic and Private Sector Housing

#### Recommendation

1. That the Council responds to the Ministry of Housing Communities and Local Government (MHCLG) consultation on the Rogue Landlords and Property Agents as detailed in Appendix A.

#### Reason

1. To ensure that the Council's views are considered by the MHCLG when developing national policies which may affect the residents of the Borough of Charnwood.

#### Authority for Decision

Under section 8.2 of the Constitution the Head of Strategic and Private Sector Housing has delegated authority to respond to consultation documents in relation to those Council functions for which she has responsibility, in consultation with the relevant Lead Member for Regulatory Services, Enforcement and Licensing.

#### Decision and Date



Signed:  
Head of Strategic and Private Sector Housing

Dated: 24/10/2019

## **Background**

On 21st July 2019, the Ministry of Housing, Communities and Local Government (MHCLG) opened a consultation on Widening Access and Considering the Scope of the Database of Rogue Landlords and Property Agents. This consultation closes on the 11<sup>th</sup> October 2019

In 2018 the Prime Minister committed to opening up access to the Database of Rogue Landlords and Property Agents. The Government want to ensure that the tool is useful for both tenants and Local Authorities and through this consultation are inviting views on their proposal. The proposal is to provide current and prospective tenants the opportunity to view information held within the database.

The Head of Strategic and Private Sector Housing has consulted with the Lead Member for Housing on the Council's proposed response as detailed in Appendix A.

## **Risk Management**

There are no risks identified with this decision.

**Key Decision:** No

**Background Papers:** MHCLG consultation document available at:  
<https://www.gov.uk/government/consultation/rogue-landlord-database-reform>

# consultation response

## ROGUE LANDLORD DATABASE REFORM

This briefing paper considers the Ministry of Housing, Communities and Local Government (MHCLG) consultation paper on the Rogue Landlord Database Reform, Widening Access and Considering the Scope of the Database of Rogue Landlords and Property Agents. The consultation opened on the 21<sup>st</sup> July 2019 and closes on the 11<sup>th</sup> October 2019.

### Introduction

In 2018 the Prime Minister committed to opening up access to the database of rogue landlords and property agents. The Government want to ensure that the tool is useful for both tenants and Local Authorities and through this consultation are inviting views on their proposal.

The Government want to ensure that the database of the rogue landlords and property agents is a useful tool for tenants and local authorities and therefore the Government are considering who has access to the database. The aim is to provide a more comprehensive range of information to assist existing and prospective tenants in making an informed choice about who to rent from.

### About you

1. Are you responding as:

- A tenant
- A landlord
- A property agent
- A Local Authority
- A landlord representative body
- A tenant representative body
- Legal sector

- Other

### Council Response

A Local Authority

*As a Local Authority please specify which*

Charnwood Borough Council

Name and Email Address

Alison Simmons

Alison.simmons@charnwood.gov.uk

## Widening Access

**The following questions focus on widening access to allow existing and potential tenants access to the database.**

*3. Do you think that the database should allow tenants and potential tenants' access to the database?*

- Yes

*4 (if yes) please give your reasons for allowing access to the database*

- Allows tenants to make an informed choice
- Allows tenants to check they are not renting from a known rogue landlord or property agent
- It will act as a deterrent to rogue landlords and property agents

*5 (if tenant protection) Why do you think it is necessary for their protection*

*6. Do you think access to the database of rogue landlords and property agents would be a useful tool for tenants and potential tenants in making a decision on properties to rent?*

- Yes

*7 (if yes) Under what circumstances do you think a potential tenant would make use of the database prior to a tenancy.*

- If a tenant had concerns about a landlord
- Allows tenants to make an informed choice



8. *Under what circumstance do you think a tenant would make use of the database during a tenancy?*

- Only after attempting to have the landlord/agent rectify the issue
- At the same time as complaining to the local authority

9. *Why do you think a tenant would not make use of the database?*

- The information held on the database would not rectify the issue

10. *Who else might benefit from access to the database? Please also provide your reasons?*

- Lettings Agents
- Managing Agents
- Advice Organisations such as CAB
- Housing Advice Charities.

11. *To meet data protection requirements the database would require an access portal, which of the following options do you think would be appropriate?*

- Signing up for a user account and providing your details such as name, address and email address

12. *Should a redacted version of the landlord/agent's address to be viewable to tenants, for example the local authority area, town, street and partial postcode|?*

- No

13 *(If yes) Please provide reasons why a redacted version of the landlords/agents address should be viewable to tenants*

14 *(if no) Please provide reasons why a redacted version of the landlord/agents address should not be viewable to tenants.*

- A tenant should have the details of their landlord or prospective landlord on their tenancy agreement so an edited version would not enable checks to be made.
- It would therefore, make it easier for the tenant to find the correct landlord on the register.

15 *Should potential or existing tenants be able to view the landlord/agent's full name?*

- Yes

16. (If yes) Please provide reasons why a potential or existing tenant should be able to view the landlord/agent's full name?

- A tenant should have the details of their landlord or prospective on their tenancy agreement so an edited version would not enable checks to be made.

17. Do you think a landlord or agent should be required to disclose to an existing or prospective tenant that they are included on the database?

- Yes

18 (if yes) Please give your reasons for why a landlord or agent should be required to disclose to an existing or prospective tenant that they are included on the database.

- Provides additional level of tenant protection
- Landlords are required to provide information such as energy performance and certificates and gas safety certificates
- Other. To allow prospective tenants to make an informed choice. If they have not searched the data base themselves

19 (if no) please give your reasons for why a landlord or agent should not be required to disclose to an existing or prospective tenant that they are included on the database.

20. Should full details of the offence a landlord or agent has been convicted of, including nature of the offence be viewable?

- Yes

21 (If no) which of the following options should be included?

**We intent to maintain a record of the database in line with the Rehabilitation of Offenders Act. If you feel the length of time a record should remain on the database should be a different please provide details.**

22. How long should a landlord remain on the database?

- As long as the conviction remains unspent and in line with the Rehabilitation of Offenders Act

## Widening the scope of the database

The following questions focus on widening the scope of the database, an annex containing a list of possible offences an infractions and brief overview is included in Annex B.



23. Do you agree with the list of proposed additional offences contained at Annex B?

- Query re Improvement Notices as the landlord needs to have the time to complete the works required. Failing to comply is already contained in Annex A. Would the Landlord go on the database once the Improvement Notice has been served and subsequently removed from the database once they have complied with the Notice?

**In its current form, 2 or more Civil Penalties, within a 12 month period are required for a landlord to be included on the database.**

24. Do you think that landlords/agent who receives a single penalty notice should be included on the database?

- Yes

**Where a property is not up to the required standard a local authority can issue an improvement notice. An improvement notice is issued when a certain property contains serious hazards such as a category 1 or 2 hazard/s under the Housing Health and Safety Rating System (HHSRS) requiring the landlord to take remedial action in relation to the hazard. The notice will detail what the hazard is, what is causing it and the action required to remedy the hazard.**

25. Where the landlord/agent has been issued with an improvement notice, should they be included on the database?

- No

26 (If yes) Please give your reasons why a landlord who has been issued with an improvement notice should be included on the database?

**The Annexes contain certain serious housing related offences. We are interested to know if minor housing related breaches should be included on the database. This includes less serious hazards or defects where the local authority does not have a duty to take enforcement action, but that still may suggest poor management.**

27. Are there any other offences not listed in the annexes that should be included?

- No other offences to be included.

**Before granting a licence a Local Authority must carry out a fit and proper person test on the prospective landlord. A fit and proper test is not universal, and it is up to individual Local Authorities to decide upon the detail of the test.**

28. Should landlord/agents who fail a fit and proper person test to be included on the database?

- Yes

29 (if yes) Please give your reasons why landlords/agents who fail a fit and proper test should be included on the database.

- Landlords or Agents who fail the test would not be able issued a licence and therefore the tenant would not be safeguarded by all the conditions of the license and the HSS legislation.

30. Should the reason for failing the fit and proper person test be included and viewable?

- No

**Local Authorities currently have discretion on how they assess who is a fit and proper person. The functioning of the fit and proper person test will not be addressed directly as part of this consultation. However we are interested in your views as they relate to the question of inclusion of failure of the test in the database.**

31. Would it be helpful to introduce a standardised fit and proper person test?

- Yes

32. (If yes) Please provide further detail on why you think it would be helpful to introduce a standardised fit and proper test?

- To ensure there is no confusion for landlords/agents as what this means and the requirement to meet this compared with local authorities having different definitions and criteria.
- It would be helpful to include a DBS check instead of relying on self declaration; this would be in line with the criteria for a Mobile Home Site fit and proper person license holder.

33 (if no) Please provide further detail on why you think it would not be helpful to introduce a standardised fit and proper person test?

## Selective Licensing Scheme

The following questions relate to landlords and agents whose properties are subject to a local authority's licensing scheme such as a house in multiple occupation, or selective licensing within a particular area.



34. *Where a landlord/agent has a licence to let a House in Multiple Occupation, or a property subject to a selective licensing denied or revoked, should the landlord or agent be included on the database?*

- Yes

35 (if yes) *Please give your reasons why a landlord/agent who has had a licence to let a House in Multiple Occupation or a property subject to a selective licensing denied or revoked should be included on the database?*

- Selective licensing should be treated the same as mandatory licensing

36. *Should the reason for a licence being denied or revoked be viewable?*

- No

37. *In relation to question 34, please give further details.*

This is covered by the fit and proper person test. However, the database is about the landlord not the property and there could be occasions when the property drops below the threshold.

**Under the Housing Act 2004 a local authority can make management orders in respect of houses in multiple occupation and other privately rented property. These include certain conditions that need to be met that are linked to the conditions and management of a property.**

38. *Should a landlord or agent whose property is subject to a management order be included on the database?*

- Yes

39. *(If yes) please give your reasons why a landlord or agent whose property is subject to a management order to be included on the database.*

- The database should include landlords and managing agents, it will increase the number of entries on the data base, although there is a risk of duplication.

**From 1<sup>st</sup> October 2014 all property agents have been required to belong to a redress system. Government intends to make membership of a redress scheme mandatory for all private landlords when parliamentary time allows.**

40. *Should landlords and property agents who are expelled from a redress scheme be included on the database?*

- Yes

41 *(If yes) Please give your reasons why landlords and property agents who are expelled from a redress scheme should be included on the database.*

- If a tenant has a complaint about a landlord or property agent that cannot be resolved then the tenant can take their complaint to the redress scheme,
- Therefore if a landlord or letting agent has been expelled from a redress scheme the tenant will not have a redress scheme to arbitrate for them if they should have a complaint

## Local Authority Access

*42. Should local authorities retain access to information held on the database after it is no longer available for tenant access, for specific purposes such as legal and/or audit?*

- Yes

*43 Please provide further detail for your answer to question 42*

- The local authority could be questioned as to why they made a decision and it would be useful to access information that is no longer available to the public.

## Any further comments

*44. Is there anything else you would like?*