



Ministry of Housing,
Communities &
Local Government

Rogue Landlord Database Reform

Widening Access and Considering the Scope of the
Database of Rogue Landlords and Property Agents



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If you have any enquiries regarding this document/publication, complete the form at <http://forms.communities.gov.uk/> or write to us at:

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Contents

Scope of the consultation	4
Personal data	5
Introduction	7
About you	9
Widening Access	11
Widening the scope of the database	16
Selective Licensing Scheme	19
Local Authority Access	21
Any further comments	22
About this consultation	23

Scope of the consultation

Topic of this consultation:	<p>We want to ensure that the database of rogue landlords and property agents is a useful tool for tenants and local authorities and therefore we are also considering who has access to the database and the scope of offences to be included on 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.</p> <p>Through this consultation we are inviting views from all interested parties on our proposals.</p>
Geographical scope:	These proposals relate to England only.
Impact Assessment:	The purpose of the consultation is to gather evidence and seek views on the issues above. Any policy change brought forward as a result of the consultation would be subject to appropriate assessment.

Basic Information

To:	Public
Body/bodies responsible for the consultation:	MHCLG
Duration:	This consultation will last for 12 weeks from 21 July 2019
Enquiries:	For any enquiries about the consultation please contact: PRSenforcement@communities.gov.uk
How to respond:	<p>You may respond by completing an online survey at: https://www.surveymonkey.co.uk/r/RogueLandlordDatabaseReform</p> <p>Alternatively you can email your response to the questions in this consultation to PRSenforcement@communities.gov.uk</p> <p>If you are responding in writing, please make it clear which questions you are responding to.</p> <p>Written responses should be sent to: Rogue Landlord Database Reform Consultation Private Rented Sector Division 3rd Floor, Fry 2 Marsham Street SW1P 4DF</p>

Personal data

The following is to explain your rights and give you the information you are entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as a part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters. However, should you not wish to provide any personal data, you can still complete the online survey or submit a response requesting that we do not store or collect your personal data.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

Survey Monkey will collect some data for this consultation. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation.

6. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record

c. to ask to have all or some of your data deleted or corrected

d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. We use Survey Monkey, so your data will be stored on their servers in the first instance. Their privacy policy can be found here <https://www.surveymonkey.com/mp/gdpr>. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this. Once downloaded from Survey monkey your personal data will also be stored in a secure government IT system.

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure Government IT system. Data provided to Survey Monkey will be moved from there to our internal systems by June 2020.

Introduction

In October 2018 the Prime Minister committed to opening up access to the database of rogue landlords and property agents. We want to ensure that this tool is useful for both tenants and local authorities and through this consultation we are inviting views on our proposals.

The private rented sector is the second largest tenure in England, housing 4.5 million, or 19%, of households. The majority of landlords in the private rented sector (PRS) provide decent and well-managed accommodation, but there is a small number of rogue landlords and property agents who knowingly flout their legal obligations and rent out substandard accommodation. We are committed to rebalancing the relationship between tenants and landlords to deliver a fairer, more affordable and better quality private rented sector.

The database of rogue landlords and property agents (“the database”) was introduced as part of the Housing and Planning Act 2016 and went live in April 2018. The database was just one of the tools introduced to enable local authorities to take effective enforcement action. The database is designed to help local authorities target their enforcement action against the very worst landlords who wilfully flout the law and neglect their responsibilities to provide safe and decent accommodation. The database enables local authorities to share information about criminal landlords and is especially useful where they are operating across local authority boundaries.

A local authority must make an entry onto the database where a landlord or property agent has received a banning order. Where a landlord or property agent has been convicted of a banning order offence or has received 2 or more civil penalties for such an offence within a 12-month period, the local authority has the discretion to make an entry on the database. Access to the database is currently limited to local authorities except in certain circumstances where the Secretary of State may disclose information if it is in anonymised form.

In line with the Prime Minister’s 2018 commitment, our intention is to give current and prospective tenants the opportunity to view information held within the database.

We want to ensure that the database is a useful tool for tenants and local authorities and therefore we are also considering the scope of offences to be included on 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. Currently the database includes categories of information such as name, address and offence details for each entry. We are not proposing to make any changes to the categories of data currently stored about landlords and agents in database entries.

Through this consultation we are inviting views from all interested parties on our proposals.

Completing the Consultation

If you are completing this online you will not be asked to answer every question. Some answers will direct you to skip sections of the consultation which are not relevant to you.

If you are completing this consultation in paper form please don't complete any questions that do not apply.

Devolved Administrations

The database only applies to landlords and property agents with properties in England.

Next Steps

The responses to the consultation will be analysed, with a government response to follow.

This consultation forms one of a range of tools the Department will use in assessing how to proceed with this policy.

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 – please provide further information

As a local authority please specify which (there is a limit of 100 characters).

As a landlord representative please specify which (there is a limit of 100 characters).

As a tenant representative please specify which (there is a limit of 100 characters).

Name and Email Address

1. *Please provide your name and email address*

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 details of rogue landlords and property agents contained within it?

- Yes
- No

4. (If yes) Please give your reasons for allowing access to the database.

- Allows tenants to check they are not renting from a known rogue landlord or property agent
- Allows tenants to make an informed choice
- It will act as a deterrent to rogue landlords and property agents
- For tenant protection
- Other - please specify (there is a limit of 750 characters).

5. (If tenant protection) Why do you think it is necessary for their protection (there is a limit of 750 characters)?

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
- No

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

- Only if a tenant had concerns about the property
- If a tenant had concerns about a landlord
- As a matter of course (due diligence)

8. *Under what circumstances 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
- As soon as the issue arises
- At the same time as complaining to the local authority
- All of the above

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

- Would complain to the local authority about the issue
- The information held on the database would not rectify the issue.
- Other - please provide further information (there is a limit of 750 characters).

10. *Who else might benefit from access to the database? Please also provide your reasons (there is a limit of 750 characters).*

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.
- Sign up with an email address
- Access by entering your postcode and property number

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

- Yes
- No

13. (If yes) Please provide reasons why a redacted version of the landlord/agent's address should be viewable to tenants (there is a limit of 750 characters).

14. (If no) Please provide reasons why a redacted version of the landlord/agent's address should not be viewable to tenants (there is a limit of 750 characters).

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

- Yes
- No

16. (If yes) Please provide reasons why a potential or existing tenant should be able to view the landlord/agent's full name? (there is a limit of 750 characters)

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
- No

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.

- Landlords are already required to provide other information such as energy performance certificates and gas safety certificates.
- Provides additional level of tenant protection.
- Other - please specify (there is a limit of 750 characters).

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.

- This is unnecessary if tenants have access to the database.
- Other - please specify (there is a limit of 750 characters).

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

- Yes
- No

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

- No details other than that an offence was committed.
- Just the legislation that has been breached.
- The legislation that has been breached with a link to a glossary giving more detail on what could be covered.
- Full details of the offence as at question 20 and the sentence received.

We intend to maintain a record on 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 different please provide further 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.
- If there is there any reason to retain the information for less time than outlined in the Rehabilitation of Offenders Act, please provide further details in the comment box below (there is a limit of 750 characters).

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 and infractions and brief overview has been included [here](#).

23. Do you agree with the list proposed additional offences contained at in annex B? (there is a limit of 1000 characters)

In its current form, two 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/agents who receive a single civil penalty notice should be included on the database?

- Yes
- No: It should remain two or more civil penalty notices

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

- Yes
- 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 (there is a limit of 750 characters).

The [annexes](#) contain 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 does 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? Please specify and give your reasons for inclusion (there is a limit of 750 characters).

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 be included on the database?

- Yes
- No

29. (if yes) Please give your reasons why landlords/agents who fail a fit and proper person test should be included on the database (there is a limit of 750 characters).

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

- No
- Yes, please give reasons (there is a limit of 750 characters).

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
- No

32. (If yes) Please provide further detail on why you think it would be helpful to introduce a standardised fit and proper person test (there is a limit of 750 characters).

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 (there is a limit of 750 characters).

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 selective licensing denied or revoked, should the landlord or agent be included on the database?

- Yes
- No

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 selective licensing denied or revoked should be included on the database. (there is a limit of 750 characters)

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

- Yes, to all users
- Yes, to Local Authorities only
- No

37. In relation to question 34, please give further details (there is a limit of 750 characters).

Under the Housing Act 2004 a local housing 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
- No

39. (If yes) Please give your reasons why a landlord or agent whose property is subject to a management order should be included on the database (there is a limit of 750 characters).

From 1 October 2014 all property agents have been required to be belong to a redress scheme. 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
- No

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 (there is a limit of 750 characters).

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
- No

43. Please provide further detail for your answer to question 42 (there is a limit of 750 characters).

Any further comments

44. Is there anything else you would like to add? (there is a limit of 1500 characters)

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal data, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018 (DPA), the EU General Data Protection Regulation, and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the Freedom of Information Act and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with the law and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included at the beginning of this document.

Individual responses will not be acknowledged.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).