

Decision Pathway – Report



PURPOSE: For noting

MEETING: Cabinet

DATE: 05 April 2022

TITLE	Private Housing Service– Rogue landlord database and time period of a banning order Policy.		
Ward(s)	All Wards		
Author: Andrew Riddell/Jonathan Mallinson	Job title: Senior Environmental Health Housing Officer/Private Housing Manager		
Cabinet lead: Cllr Tom Renhard, Cabinet Member for Housing	Executive Director lead: Stephen Peacock, Executive Director - Growth & Regeneration		
Proposal origin: BCC Staff			
Decision maker: Officer Decision forum: Officer Meeting			
Purpose of Report:			
<ol style="list-style-type: none"> 1. For Cabinet to note the Policy approved by the Cabinet Member for Housing and the Executive Director for Growth and Regeneration. Policy approved: “Private Housing Service– Rogue landlord database and time period of a banning order Policy” (Appendix A1). 			
Evidence Base:			
<ol style="list-style-type: none"> 1. The Private Housing Service– Rogue landlord database and time period of a banning order policy explains how Bristol City Council (BCC) will discharge its duty and use the powers in the Housing and Planning Act 2016 (the Act) to determine whether to add a landlord or property agents details to the National Database of Rogue Landlords and Property Agents (the database). This policy includes how BCC will determine the length of time an entry should remain on the database and how long the Council will ask First Tier Tribunals to make a Banning Order for. 2. The Act introduced a range of measures to crack down on rogue landlords. These include banning orders for the most serious offender; and a database of rogue landlords and property agents against whom a banning order has been made, which may also include persons convicted of a banning order offence or who have received two or more financial penalties. 3. The Council and the Government are clear that the small minority of rogue landlords and property agents who knowingly flout their legal obligations, rent out accommodation which is substandard and harass their tenants should be prevented from managing or letting housing. 4. The database was established and is operated by the Secretary of State, but it is Local Housing Authorities (LHA’s) in England that are legally responsible for maintaining and updating the content of the database. Only LHA’s and the Secretary of State have access to the database and may only use the information in the ways defined in Section 39 of the Housing Planning Act 2016. 5. The Act enables Local Authorities to apply to the First-tier Tribunal to impose a banning order on a landlord following conviction for a banning order offence. 6. When BCC has made the decision to exercise its powers to apply to a First Tier Tribunal to ban a person who has committed a banning order offence. This policy provides details of the factors the Council will take into account when deciding the duration of that banning order when making its application. The length of the any banning order, if granted, will be a decision for the Tribunal. 7. The Policy was approved by the Executive Director Growth and Regeneration on 31st January 2022. The policy should be read in conjunction with Bristol City Council’s existing Policy to determine applications for a Banning Order and Private Housing Enforcement Policy (revised 2017). These policies apply when a Local Housing Authority has made the decision to exercise its powers under Section 15 of the Housing and Planning Act 2016 to make an application to a First Tier Tribunal for a Banning Order. 			
Cabinet Member / Officer Recommendations:			

1. That Cabinet notes the approval of the Private Housing Service Policy – Rogue landlord database and time period of a banning order Policy.

Corporate Strategy alignment:

1. Fair and Inclusive - Improve economic and social equality, pursuing economic growth which includes everyone and making sure people have access to good quality learning, decent jobs and homes they can afford.
2. Enforcement of national housing standards within Private Rented Sector (PRS) helps to improve the quality and safety of homes and contributes to our commitment to create ‘healthier and more resilient communities’ (Corporate Strategy 2018-2023).
3. Maintenance and improvements in housing quality standards delivers on our commitment to be ‘Fair and Inclusive by providing leadership across a range of housing issues’ (Corporate Strategy 2018-2023).
4. The ‘Fair and Inclusive’ theme of the City Council’s Corporate Strategy 2018-2023 identifies that decent housing and a high quality built environment can contribute much to the overall health and wellbeing and quality of life for Bristol residents.

City Benefits:

1. Decent housing and a high quality built environment can contribute much to the overall health and wellbeing and quality of life for Bristol residents (Corporate Strategy 2018-2023). The National Database of Rogue Landlords and Property agents and Banning Orders are integral enforcement tools to helping maintain standards in the PRS with Bristol.

Consultation Details:

1. Report taken to the Cabinet Member for Housing 24th January 2022 who requested that this policy taken to Cabinet for noting.

Background Documents:

- [Housing and Planning Act 2016 – Part 2 - Chapter 3 - Database of rogue landlords and property agents](#)
- [Housing and Planning Act 2016 - Part 2 - Chapter 2 - Banning Orders](#)
- [Banning Order Offences under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities](#)
- [Database of rogue landlords and property agents under the Housing and Planning Act 2016 - Statutory guidance for Local Housing Authorities](#)
- [Bristol City Council \(Private Housing Service\) Policy to determine application for a Banning Order](#)
- [Private Housing Enforcement Policy \(revised 2017\)](#)

Revenue Cost	£N/A	Source of Revenue Funding	
Capital Cost	£N/A	Source of Capital Funding	
One off cost <input type="checkbox"/>	Ongoing cost <input type="checkbox"/>	Saving Proposal <input type="checkbox"/>	Income generation proposal <input type="checkbox"/>

Required information to be completed by Financial/Legal/ICT/ HR partners:

1. Finance Advice: There is no direct financial implication in relation to proposal in this report.

Finance Business Partner: Aisha Bapu - Finance Business Partner 1 February 2022

2. Legal Advice

This policy aims to regulate the way in which Bristol City Council (BCC) considers and deals with entries onto the Rogue Landlord Database and how it will consider the time periods sought in terms of applications to the First Tier Tribunal for Banning Orders.

The Legislative and Regulatory Reform Act 2006 provides that anyone exercising an authority's regulatory functions must have regard to the following principles:-

-regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;

-regulatory activities should be targeted only at cases in which action is needed.

The Act also provides that the decision maker must have regard to the Regulators Code of Practice when determining an enforcement policy.

Any policy adopted by BCC therefore must be applied consistently, in a proportionate manner and in a transparent fashion. BCC will be accountable in terms of its decisions under the policy. Any applications or departures from the policy must be documented and justified robustly.

The Public Sector Equality duty requires the decision maker to consider the need to promote equality for persons with "protected characteristics" and to have due regard to the need to

1. eliminate discrimination, harassment, and victimisation;
2. advance equality of opportunity; and
3. foster good relations between persons who share a relevant protected characteristic and those who do not share it.

The Equalities Impact /Assessment is designed to assess whether there are any barriers in place that may prevent people with a protected characteristic using a service or benefiting from a policy. The decision maker must take into consideration the information in the check/assessment before taking the decision to approve the policy

Legal Team Leader: Provided by Anne Nugent (Team Leader) in consultation with Kate Burnham Davies 13.1.22 and reviewed again in 27/1/22 and on 14 March 2022.

3. Implications on IT: I can see no implications on IT in regards to this activity.

IT Team Leader: Gavin Ar buckle – Head of Service Improvement and Performance 3 February 2022

4. HR Advice: 'There are no HR implications evident'

HR Partner: Celia Williams HR Business Partner – Growth and Regeneration 27 January 2022

EDM Sign-off	Stephen Peacock, Executive Director Growth and Regeneration	31 January 2022
Cabinet Member sign-off	Cllr Tom Renhard	7 February 2022
For Key Decisions - Mayor's Office sign-off	Not a Key decision but Mayor's office has signed off.	7 March 2022

Appendix A – Further essential background / detail on the proposal	YES
Appendix B – Details of consultation carried out - internal and external	NO
Appendix C – Summary of any engagement with scrutiny	NO
Appendix D – Risk assessment	NO
Appendix E – Equalities screening / impact assessment of proposal	YES
Appendix F – Eco-impact screening/ impact assessment of proposal	YES
Appendix G – Financial Advice	NO
Appendix H – Legal Advice	NO
Appendix I – Exempt Information	No
Appendix J – HR advice	NO

Appendix K – ICT	NO
Appendix L – Procurement	NO