



Bristol City Council – Housing and Landlord Services

## Private Housing Service Policy - Rogue landlord database and time period of a banning order.

Version 1

Approved by	<b>Stephen Peacock Executive Director of Growth and Regeneration</b>
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Responsibility	Homes and Landlord Services - Private Housing and Accessible Homes – Private Housing Team

### History of most recent policy change or health-check

Date	Page	Change	Origin of change (e.g. legislation)

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## 1. Introduction and Legal framework

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.

The Housing and Planning Act 2016 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.

This 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).

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<sup>1</sup> 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.

This policy also explains how the Council will decide how long a Banning Order should be made for when it applies for a Banning Order against an agent or landlord under the Act.

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.

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.

## 2. Aims and Objectives

To document the factors that this Authority will follow to comply with its duties and when it exercises its powers, to make, update or remove an entry from the database.

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<sup>1</sup> Housing and Planning Act 2016 – Section 34 - Updating

The policy also documents the procedure BCC will follow when determining the length of time of a Banning Order, when making a Banning Order application.

This policy will be applied on a case by case basis.

The policy takes into account the statutory [guidance](#)<sup>2</sup> issued by the Ministry of Housing, Communities and Local Government.

The policy also takes into account [non-statutory guidance](#)<sup>3</sup> issued by the Ministry of Housing, Communities and Local Government. This guidance will also be considered in each case when determining whether to apply for a banning order.

The policy would be read in conjunction with Bristol City Council's Policy to determine applications for a Banning Order<sup>4</sup> and Private Housing Enforcement Policy (revised 2017)<sup>5</sup>.

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<sup>2</sup> Database of rogue landlords and property agents under the Housing and Planning Act 2016  
Statutory guidance for Local Housing Authorities - 2018- Ministry of Housing, Communities and Local Government

<sup>3</sup> Guidance for Local Housing Authorities - Banning Order Offences under the Housing and Planning Act 2016

<sup>4</sup> [Policy to determine application for a Banning Order \(bristol.gov.uk\)](#)

<sup>5</sup> [Private housing policies and performance - bristol.gov.uk](#)

### 3. The Policy

#### **When the Council *must* make an entry on the Database.**

The Council **must** make an entry on the database in respect of a person if a banning order has been made against that person.

#### **When the Council *may* decide to make an entry on the Database.**

A Local Authority in England **may** decide to exercise its powers to make an entry on the database in respect of a residential landlord or a property agent: -

- if they have been convicted of a banning order offence<sup>6</sup> or
- received a financial penalty<sup>7</sup> in respect of a banning order offence at least twice within a period of 12 months.

#### **A. What the Council will consider when deciding to make an entry on the Database.**

The statutory guidance sets out the following criteria which the Council will consider: -

##### Severity of the offence.

The more serious the offence, the stronger the justification for including the offender on the database.

##### Mitigating factors.

In cases where a less serious offence has been committed and/or there are mitigating factors, local housing authorities may decide not to make an entry on the database. Mitigating factors could include personal issues, for example, health problems or a recent bereavement. It is for local housing authorities to decide on a case by case basis whether mitigating factors are strong enough to justify a decision not to record a person's details on the database.

##### Culpability and serial offending.

Whether the offender has a history of failing to comply with their obligations. Where there is a clear history of knowingly committing banning order offences and/or non-compliance, the stronger the justification for making an entry on the database.

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<sup>6</sup> [The Housing and Planning Act 2016 \(Banning Order Offences\) Regulations 2018](#)

<sup>7</sup> [The Housing Act 2004 – Financial penalties for certain housing offences in England.](#)

Conversely, where it is a first offence and/or where it is a relatively minor, a local housing authority may decide that it is not appropriate to record a person's information on the database.

Deter the offender from repeating the offence.

The ultimate goal is to prevent landlords and property agents, who have failed to comply with all of their legal responsibilities, repeating the offence. An important part of deterrence is the realisation by the offender that (a) the local housing authority has the tools and is proactive in recording the details of rogue landlord and property agents and (b) that they will be unable to simply move from one local housing authority to another and repeat the same offences as the information will be available to other local housing authorities. It will also encourage joint working between local housing authorities who will be able to establish whether rogue landlords operate across their local housing authority areas. For example, including someone on the database might be an important deterrent if they rent out property in multiple local housing authority areas, as inclusion on the database will make their information available to other local housing authorities.

Deter others from committing similar offences.

Knowing that they may be included on the database if they are convicted of a banning order offence or receive multiple financial penalties, may deter some landlords from committing banning order offences in the first place.

**B. What the Council will consider when deciding how long an entry should remain on the database or determining the length of a Banning Order.**

Where a banning order has been made, the entry on the database must be maintained for the period for which the banning order has effect and must then be removed.

If the Council decides to use its power to make an entry on the database, it cannot be for less than two years.<sup>8</sup> There is no maximum length of time an entry may remain on the database.

The statutory guidance for determining how long an entry to the database made on discretionary grounds should remain, lists a number of factors that must be considered. These factors are listed below.

The non-statutory guidance for determining the length of a banning order provides a similar list and have been amalgamated into the list below.

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<sup>8</sup> [Section 31 Housing and Planning Act 2016](#)

### Severity of offence.

The severity of the offence and related factors, such as whether there have been several offences over a period of time, should be considered. Where an offence is particularly serious and/or there have been several previous offences; and/or the offence(s) have been committed over a period of time, then the decision notice should specify a longer period of time. Where one or more of those factors are absent, it may be appropriate to specify a shorter period.

### Mitigating factors.

These could include a genuine one-off mistake, personal issues such as ill-health or a recent bereavement. Where this is the case, a local housing authority may decide to specify a shorter period of time in the decision notice.

### Culpability and serial offending.

A track record of serial offending or where the offender knew, or ought to have known, that they were in breach of their responsibilities may suggest a longer time period would be appropriate.

### Deter the offender from repeating the offence.

The data should be retained on the database for a reasonable period of time so that it is a genuine deterrent to further offences.

The period that an entry will be made for will be decided based upon a consideration of the individual circumstances and having regard to the statutory guidance and the following additional matters.

- Any aggravating and mitigating factors considered relevant to the banning order offence(s) committed
- The type of offence
- The sentence imposed by the court, considered in light of the sentencing guidance and including any comments made in the sentencing
- The size of any civil penalty imposed for the offence
- The degree to which the offender appears to have learnt a lesson(s) since committing the banning order offence(s) and has changed their compliance behaviour

### **C. Determining the length of time for an entry on the database or the duration of a Banning Order.**

When BCC has made the decision to exercise its powers under the Act to make an entry on the database, it will use the following steps and considerations to determine the length of time that the subject should be added to the database.

After a Banning Order has been made, an entry must be made on the database and it must be maintained for the period for which the banning order has effect and must then be removed<sup>9</sup>.

When BCC has made the decision to make an application for a Banning Order under the Act, it will use the following steps and considerations to determine the length of time of the Banning Order it is applying for.

Step 1

The effect of “Severity of offence” and the “Culpability and serial offending” will be considered by using the matrix below to determine an initial length of time that an entry should remain on the database.

		Severity of offence.		
		Low	Medium	High
Culpability and serial offending	Very High	10yrs	10yrs	15yrs or more
	High	5yrs	10yrs	10yrs
	Medium	2yrs	5yrs	10yrs
	Low	2yrs	2yrs	5yrs

Step 2

Apply any mitigation presented in relation to the initial calculation and recalculate as necessary.

Step 3

Determine if the current outcome is of sufficient length to deter the offender from repeating the offence and recalculate as necessary.

The calculated timescale of an entry on the database cannot be less than 2 years<sup>9</sup> as the minimum timescale for an entry on the database for a person convicted of a banning order offence is two years beginning on the day that the entry is made <sup>10</sup>.

The calculated timescale for the duration of a Banning Order cannot be less than 12 months<sup>11</sup>.

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<sup>9</sup> Housing and Planning Act 2016 – Section 29

<sup>10</sup> Housing and Planning Act 2016 – Section 31

<sup>11</sup> Section 17 – Duration and effect of banning order – Housing and Planning Act 2016

## Indefinite Bans

The matrix in step one allows for a banning of 15 years or more to be considered. In the very worst cases Bristol City Council may apply for an indefinite ban.

***The Council makes clear that under this policy it can apply for an indefinite ban.***

It will be for the Tribunal to decide if an indefinite ban should be imposed.

Extracts of Banning Orders decisions made by First Tier Tribunals provided in Appendix 2.

### **When the Council *must* remove or vary an entry from the Database.**

This Council **must** remove an entry it made if **all** the convictions on which the entry was based have been overturned on appeal or if or ordered to do so by the First Tier Tribunal.

### **When the Council *may* decide to remove or vary an entry from the Database.**

In some circumstances<sup>12</sup> the Council has the power to remove or vary an entry on the database including reducing the period for which the entry it made must be maintained.

In those circumstances, the Council will consider the same factors set out in this policy to be used, when making the decision whether or not to make an entry on the database and the same factors of how long an entry shall remain on the database.

### **Rights of appeal.**

The procedures the Council must follow are set out in the Act. There are legal rights of appeal set out to the First Tier Tribunal in relation to decisions the Council makes to use its powers in relation to the database.

## **4. Equalities and diversity**

We will act sensitively towards the diverse needs of individuals and communities and we will take positive action to reduce discrimination and harassment.

An Equalities Impact Assessment has been carried out and agreed by the Equalities Team.

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<sup>12</sup> Section 36 - Removal or variation of entries - Housing and Planning Act 2016.

## **5. Roles and responsibilities and authority**

The Director of Housing and Landlord Services and his authorised officers are responsible for the implementation of this policy.

## **6. Monitoring, review and evaluation**

The content of this policy will be reviewed where necessary.

## 7. Appendix 1 – Table of Banning Order Offences.

At the date of writing, 20 October 2021 the following table is the list of Banning Order offences as described by The Housing and Planning Act 2016 (Banning Order Offences) Regulations 2018.

<b>Statute</b>	<b>Provision</b>	<b>Offence</b>
Protection of Eviction Act 1977	Section 1(2), (3) and (3A)	Unlawful eviction and harassment of occupier
Criminal Law Act 1977	Section 6(1)	Violence for securing entry
Housing Act 2004	Section 30(1)	Failing to comply with an improvement notice
	Section 32(1)	Failing to comply with a prohibition order
	Section 72(1), (2) and (3)	Offences in relation to licensing of Houses in Multiple Occupation
	Section 95(1) and (2)	Offences in relation to licensing of houses under Part 3
	Section 139(7)	Contravention of an overcrowding notice
	Section 234(3)	Failure to comply with management regulations in respect of Houses in Multiple Occupation
	Section 238(1)	False or misleading information
Regulatory Reform (Fire Safety) Act 2005	Article 32(1) and (2)	Fire safety offences
Health and Safety Act 1974	Section 33(1)(c) where a person contravenes any requirement specified in regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(6)	Gas safety offences - duties on landlords
Immigration Act 2014	Section 33A(1) and (10)	Residential tenancies – landlord offences
	Section 33B(2) and (4)	Residential tenancies – agent offences
Fraud Act 2006	Section 1(1)	Fraud
	Section 6(1)	Possession etc. of articles for use in frauds
	Section 7(1)	Making or supplying articles for use in frauds
	Section 9(1)	Participating in fraudulent business carried on by sole trader etc.
	Section 11(1)	Obtaining services dishonestly
	Section 12(2)	Liability of company officers for offences by company

<b>Statute</b>	<b>Provision</b>	<b>Offence</b>
Criminal Justice Act 2003 – Schedule 15 (specified violent and sexual offences)	Schedule 15	Specified violent and sexual offences
Misuse of Drugs Act 1971	Section 8	Occupiers etc. of premises to be punishable for permitting certain activities to take place there
	Section 9	Prohibition of certain activities relating to opium
	Section 9A(1) and (3)	Prohibition of supply etc. of articles for administering or preparing controlled drugs
	Section 18(1), (2), (3) and (4)	Miscellaneous offences
	Section 19	Attempts etc. to commit offences
	Section 20	Assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law
	Section 21	Offences by corporations
Proceeds of Crime Act 2002	Section 327	Concealing etc. criminal property
	Section 328	Arrangements
	Section 329	Acquisition, use and possession
Protection from Harassment Act 1997	Section 2	Offence of harassment
	Section 2A	Offence of stalking
Anti-social Behaviour, Crime and Policing Act 2014	Section 30	Breach of criminal behaviour order
	Section 48	Failure to comply with a community protection notice
Criminal Damage Act 1971	Section 1(1)	Destroying or damaging property
	Section 2	Threats to destroy or damage property
	Section 3	Possessing anything with intent to destroy or damage property
Theft Act 1968	Section 7	Theft
	Section 9	Burglary
	Section 21	Blackmail
	Section 22	Handling stolen goods

## **8. Appendix 2 - Extracts from Banning Orders made by First Tier Tribunals**

**Case Ref: - CHI/00HB/HBA/2021/0003**

### **What should be the terms of the Order?**

33. The Council requested an order for ten years. The Tribunal considers that such a period of ten years is longer than is reasonably required. The Tribunal determines that a period of 5 years is sufficient to reflect the risks posed by the Respondent as a residential landlord.

34. The Tribunal determines that this is the correct period of time having taken account of all the evidence. In this Tribunal's determination any order made should be for a period which reflects the harm identified by the Respondent's behaviour but for no longer period than reasonably reflects the same. The harm is significant, however five years provides sufficient period for the Respondent to rehabilitate and educate himself as to the statutory requirements. In this Tribunal's determination a period of exclusion from the letting and management of residential property for 5 years properly reflects the offences and harm identified.

**Case Reference: - CHI/00HP/HBA/2019/0002**

### **What should be the terms of the Order?**

46. The Applicant requested an Order for ten years on the basis of his blatant disregard for the safety of his tenants and of his continuous flouting of the law. The Applicant contended that a term of ten years would send a clear message that such conduct was not tolerated and would act as deterrent to others.

47. The Applicant confirmed that it was not aware of any other properties let by the Respondent.

48. The Tribunal on balance considers a period of ten years too long. The Tribunal decides that a period of five years is appropriate for the seriousness of the offending and the particular circumstances of the case. The Tribunal considers a period of five years constitutes a significant deterrent to the Respondent and to others who might stray into the path of being a rogue landlord.

**Case Reference: - LON/00AG/HBA/2020/0001  
LON/00AG/HBA/2020/0002  
LON/00AG/HBA/2020/0003  
LON/00AG/HBA/2020/0004**

### **Discussion and Determination:**

86. As to the length of the order we note that the minimum period is 12 months but there is no upper limit. There may be circumstances when the relevant behaviour is so extreme that it would merit a significantly long or permanent ban on the activities. In this case xxxxx has proposed a ban for five years.

87. The proposal of five years needs to be measured against a scale of a minimum period of 12 months and a lifetime ban. In these cases given the nature of the offences, the management at xxxxx Road, the opaque relationship between the three companies and the four Respondents and the lack of contrition and the failure to engage with the Local Housing Authority and this process we consider that a period of five years is sufficient to ensure that the Banning Orders will have the appropriate punitive effect on the Respondents. It is also important that the Orders have a real deterrent effect, both on the Respondents and on other landlords.

**Case Reference: - LON/00BC/HBA/2020/0007 V:CVP**

**Discussion and Determination:**

74. As to the length of the order we note that the minimum period is 12 months but there is no upper limit. There may be circumstances when the relevant behaviour is so extreme that it would merit a significantly long or permanent ban on the activities. In this case Redbridge has proposed a ban for four years. This proposal was based upon the scoring set out in the matrix created by xxxxx. As mentioned previously, it is not the role of the Tribunal to consider the details of the LHA's policy or matrix. However, the Tribunal noted that Mr xxxx accepted that the flaws identified by xxxxx in relation to the inconsistencies with the sentencing guidelines and the potential for double counting may mean that a review of the policy was required.

75. Although the Respondent suggests that the proposed four years is exceptionally excessive, this needs to be measured against a scale of a minimum period of 12 months and a lifetime ban. In this case given the nature and volume of offences we do not think the minimum period of 12 months is sufficient. However, we have reduced the period of the ban from four years to three years. We have done this as we recognise that the potential flaws in the LHA's matrix may have produced a lower recommendation, but we are concerned to ensure that the length of the ban is sufficient so that the Banning Order will have the appropriate punitive effect on Mr xxxxx, given the very serious nature of his offending. It is also important that the order has a real deterrent effect, both on the Respondent and on other landlords.

**Case Reference: - CHI/00HB/HBA/2020/0001**

**What should be the length and terms of the Banning Order?**

86. The Applicant contended that the offences were very serious, the conditions were appalling and so ten years would be an appropriate level of punishment. The

Applicant further submitted that a term of ten years would send a clear message that such conduct was not tolerated and would act as deterrent to others.

87. The Applicant confirmed that it was not aware of the Respondent being a “portfolio landlord” and of any other properties let by the Respondent. The Applicant accepted that a Banning Order may therefore have limited impact on this particular landlord, although the Respondents failure to respond to the Applicant’s request for information pursuant to section 19 of the Act limited the information available. There was no evidence as to the circumstances in which the Respondent came to create the structure containing the flats within the storage building.

88. The Tribunal on balance considers a period of ten years is not appropriate.

89. The Tribunal decides that a period of four years is appropriate in the particular circumstances of the case.

**Case Reference: - MAN/00CE/HBA/2019/0002**

**What should be the length and terms of the Banning Order?**

52 .xxxxxx Council has proposed that the bans imposed by the order should last for two years. However, whilst we agree that a ban for a significantly longer period than that would be unduly harsh and would be disproportionate, we are concerned to ensure that the length of the bans is sufficient so that the banning order will have the appropriate punitive effect on Mr xxxx, given the very serious nature of his offending. It is also important that the order has a real deterrent effect, both on Mr xxxxxx himself, and on other landlords. Being mindful of the fact that, because of the exception, the operative period of the ban on letting housing would otherwise be just 21 months, we consider that all the bans imposed by the order should last for two years and six months.

## Private Housing Service – Rogue landlord database and time period of a banning order Policy Risk Register

### Negative Risks that offer a threat to proposed policy and its Aims (Aim - Reduce Level of Risk)

Ref	Risk Description	Key Causes	Key Consequence	Status Open / Closed	Strategic Theme	Risk Category	Risk Owner	Key Mitigations	Direction of travel	Current Risk Level			Monetary Impact of Risk £k	Risk Tolerance			
										Likelihood	Impact	Risk Rating		Likelihood	Impact	Risk Rating	Date
1	Risk to tenants	Landlords may withdraw properties from market	Tenants will be better protected as Rogue Landlords or Agents will be identified to other Councils or will be banned from letting properties and or managing them for an appropriate period of time.	Open		Communities	Housing	The approval of this policy and following the policy when making the relevant decisions.	Stable	1	1	1	negligible	1	1	1	Jan-22
2	Risks to landlord or agent of being added to the Rogue Landlord Database	Compliant Landlords will see no negative effects from this policy. Landlords who have committed offences could be added to the Rogue Landlord data base or after consideration on whether to apply for a banning order be recommended to be added of a period of time. Note the decision to apply for a banning order does not sit with this policy.	Financial implications as may have reduced income from properties for the length of the banning order. Reputational consequence.	Open		Communities	Housing	There is a legal process to be followed in relation to decisions made under this policy. Landlords have a legal right to make representations to the local authority and then has a right of to put their case to a Tribunal. The decision to add make a banning order is not the Council's it is the First-tier Tribunal's. Landlords are able to transfer management of properties to suitable persons so are still able to receive income minus any management fees. The database is only accessible by local authorities.	Stable	1	1	1	negligible	1	1	1	Jan-22
3	Policy not implemented	The policy is not agreed.	Rogue landlords are able to continue operate where appropriate banning orders are not made with appropriate lengths and not placed on the rogue landlord database. Poor housing conditions in the PRS will remain/deteriorate and badly managed properties will continue.	Open		Communities	Housing	Approval and implementation of the policy	Improved	1	2	1	negligible	1	1	1	26/01/2022



# Equality Impact Assessment [version 2.9]

Title: Private Housing Service Policy – Rogue landlord database and time period of a banning order Policy	
<input checked="" type="checkbox"/> Policy <input type="checkbox"/> Strategy <input type="checkbox"/> Function <input type="checkbox"/> Service <input type="checkbox"/> Other [please state]	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> Already exists / review <input type="checkbox"/> Changing
Directorate: Growth and Regeneration	Lead Officer name: Andrew Riddell
Service Area: Private Housing	Lead Officer role: Private Housing Senior Environmental Health Housing Officer

## Step 1: What do we want to do?

The purpose of an Equality Impact Assessment is to assist decision makers in understanding the impact of proposals as part of their duties under the Equality Act 2010. Detailed guidance to support completion can be found here [Equality Impact Assessments \(EqIA\) \(sharepoint.com\)](https://sharepoint.com).

This assessment should be started at the beginning of the process by someone with a good knowledge of the proposal and service area, and sufficient influence over the proposal. It is good practice to take a team approach to completing the equality impact assessment. Please contact the [Equality and Inclusion Team](#) early for advice and feedback.

### 1.1 What are the aims and objectives/purpose of this proposal?

Briefly explain the purpose of the proposal and why it is needed. Describe who it is aimed at and the intended aims / outcomes. Where known also summarise the key actions you plan to undertake. Please use plain English, avoiding jargon and acronyms. Equality Impact Assessments are viewed by a wide range of people including decision-makers and the wider public.

The Government is 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. The Housing and Planning Act 2016 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. The Private Housing Service has received 2,827 service requests and enquiries (excluding empty properties database, FOIs and Fair Comments) since April 2021.

We seek approval from the Service Director of Growth and Regeneration of the “Private Housing Service– Rogue landlord database and time period of a banning order Policy”. The purpose of this policy is to document the procedure that this Authority will follow to comply with its duties and when it exercises its powers, to make, update or remove an entry from the National Database of Rogue Landlords and Property Agents as detailed in Part 2, Chapter 3 of the Housing and Planning Act 2016. The policy also documents the procedure the Council will follow when determining the length of time of a Banning Order, when making a Banning Order application, in accordance with the powers and requirements of Part 2, Chapter 2 of the Housing and Planning Act 2016. This policy will be applied on a case by case basis.

When private landlords in the city are unwilling or unable to provide good quality accommodation and fail to work with the Private Housing Team to bring their property up to the legally required standard or manage their properties in accordance with their legal responsibilities, the team have a variety of enforcement tools at their disposal to achieve compliance or in the most extreme cases prevent either

the property from being used or prevent “rogue” landlords and property agents from operating in the City and England.

When a local Housing Authority chooses to place a person on the National Database of Rogue Landlords and Property Agents, there is no documented procedure in the Act or the statutory guidance (Database of rogue landlords and property agents under the Housing and Planning Act 2016 - Statutory guidance for Local Housing Authorities) for determining the length of time that a person should be added to the database.

This policy would be read in conjunction with Bristol City Council’s existing Policy to determine application for a Banning Order (See Appendix A2) and Private Housing Enforcement Policy (revised 2017) (See Appendix A3). 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 against a person who has committed a banning order offence, there is no documented procedure in the Act or the non-statutory guidance (Banning Order Offences under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities) for determining the length of the Banning Order.

The “Private Housing Service – Rogue landlord database and time period of a banning order Policy details when the Council must make an entry or may make an entry on the National Database of Rogue Landlords and Property Agents and what the Council considers when deciding to make an entry. The policy also details what the Council will consider when deciding how long an entry should remain on the National Database of Rogue Landlords and Property agents or when determining the length of a banning order.

The proposed policy is required to ensure that Bristol City Council as a Local Authority is taking a consistent and proportional approach when dealing with these few “Rogue” landlords and property agents.

## 1.2 Who will the proposal have the potential to affect?

<input type="checkbox"/> Bristol City Council workforce	<input checked="" type="checkbox"/> Service users	<input checked="" type="checkbox"/> The wider community
<input type="checkbox"/> Commissioned services	<input type="checkbox"/> City partners / Stakeholder organisations	
Additional comments:		

## 1.3 Will the proposal have an equality impact?

Could the proposal affect access levels of representation or participation in a service, or does it have the potential to change e.g. quality of life: health, education, or standard of living etc.?

If ‘No’ explain why you are sure there will be no equality impact, then skip steps 2-4 and request review by Equality and Inclusion Team.

If ‘Yes’ complete the rest of this assessment, or if you plan to complete the assessment at a later stage please state this clearly here and request review by the Equality and Inclusion Team.

<input checked="" type="checkbox"/> <b>Yes</b>	<input type="checkbox"/> <b>No</b>	[please select]
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For landlords who do not comply with their legal requirements in respect of banning order offences, they could be subject to further action in the form of a banning order and entry onto the Rogue Landlord and Property Agents database. Please note as part of the procedure of taking formal legal action in a case, Private Housing consider whether or not there are any equalities issues that should be considered.

Tenants of landlords who do not comply with the legal requirements and the wider community generally will be positively affected through private housing improvements achieved through enforcement. Housing improvements have the potential to improve standard of living for the occupying tenants.

## Step 2: What information do we have?

### 2.1 What data or evidence is there which tells us who is, or could be affected?

Please use this section to demonstrate an understanding of who could be affected by the proposal. Include general population data where appropriate, and information about people who will be affected with particular reference to protected and other relevant characteristics: <https://www.bristol.gov.uk/people-communities/measuring-equalities-success>.

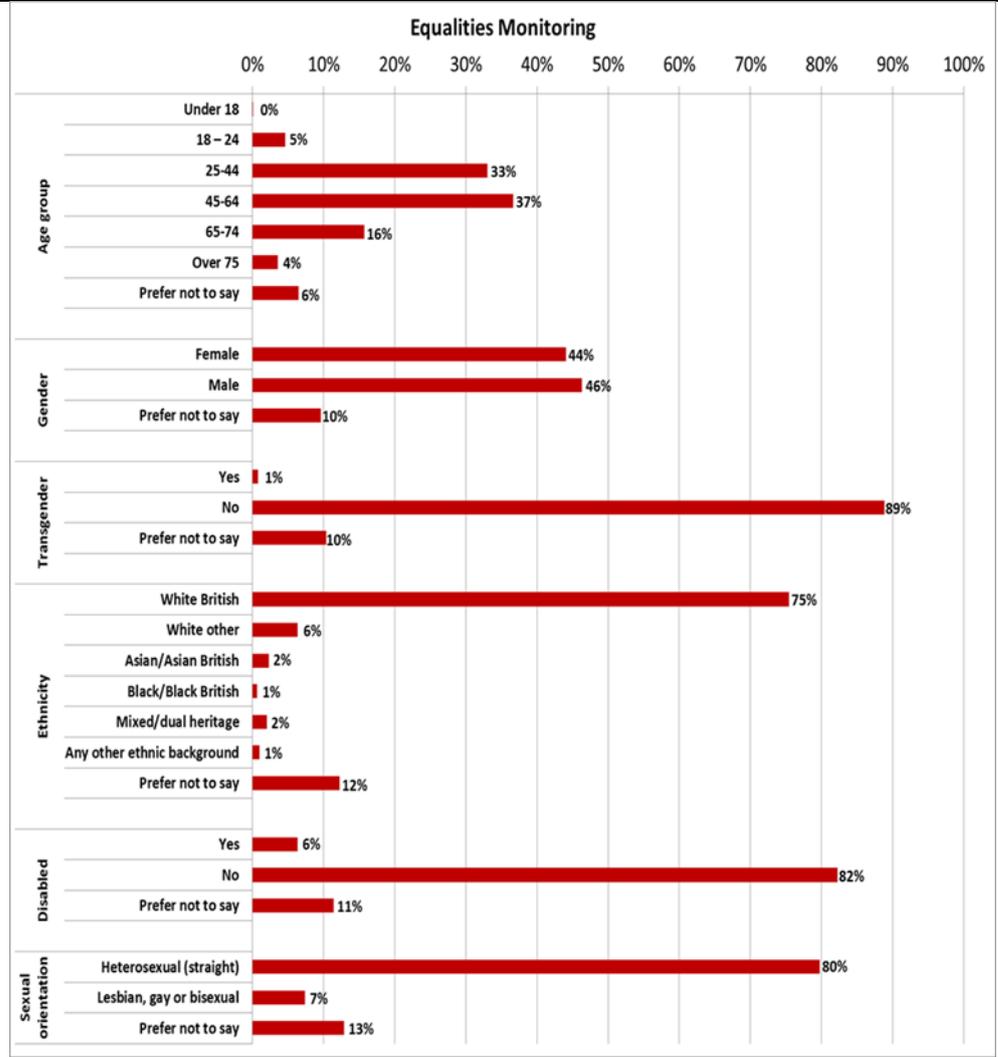
Use one row for each evidence source and say which characteristic(s) it relates to. You can include a mix of qualitative and quantitative data e.g. from national or local research, available data or previous consultations and engagement activities.

Outline whether there is any over or under representation of equality groups within relevant services - don't forget to benchmark to the local population where appropriate. Links to available data and reports are here [Data, statistics and intelligence \(sharepoint.com\)](#). See also: [Bristol Open Data \(Quality of Life, Census etc.\)](#); [Joint Strategic Needs Assessment \(JSNA\)](#); [Ward Statistical Profiles](#).

For workforce / management of change proposals you will need to look at the diversity of the affected teams using available evidence such as [HR Analytics: Power BI Reports \(sharepoint.com\)](#) which shows the diversity profile of council teams and service areas. Identify any over or under-representation compared with Bristol economically active citizens for different characteristics. Additional sources of useful workforce evidence include the [Employee Staff Survey Report](#) and [Stress Risk Assessment Form](#)

Data / Evidence Source [Include a reference where known]	Summary of what this tells us																																																																	
Tenancy Relation service user data (Sept – Dec 2021)	<p style="text-align: center;"><b>Tenancy Relations Equalities Monitoring Data</b></p> <table border="1"> <thead> <tr> <th>Category</th> <th>Sub-category</th> <th>Percentage</th> </tr> </thead> <tbody> <tr> <td rowspan="3">Gender</td> <td>Female</td> <td>56%</td> </tr> <tr> <td>Male</td> <td>38%</td> </tr> <tr> <td>Other</td> <td>6%</td> </tr> <tr> <td rowspan="5">Age</td> <td>16 - 25</td> <td>24%</td> </tr> <tr> <td>26 - 35</td> <td>47%</td> </tr> <tr> <td>36 - 45</td> <td>18%</td> </tr> <tr> <td>46 - 55</td> <td>6%</td> </tr> <tr> <td>56 - 65</td> <td>6%</td> </tr> <tr> <td rowspan="4">Orientation</td> <td>Bisexual</td> <td>6%</td> </tr> <tr> <td>Gay or lesbian</td> <td>6%</td> </tr> <tr> <td>Heterosexual or straight</td> <td>76%</td> </tr> <tr> <td>Prefer not to say</td> <td>12%</td> </tr> <tr> <td rowspan="2">Disability</td> <td>No</td> <td>65%</td> </tr> <tr> <td>Yes</td> <td>35%</td> </tr> <tr> <td rowspan="5">Religion</td> <td>Atheism</td> <td>35%</td> </tr> <tr> <td>Christianity</td> <td>35%</td> </tr> <tr> <td>Islam</td> <td>6%</td> </tr> <tr> <td>Judaism</td> <td>6%</td> </tr> <tr> <td>Prefer not to say</td> <td>18%</td> </tr> <tr> <td rowspan="10">Ethnicity</td> <td>Any other ethnic group</td> <td>12%</td> </tr> <tr> <td>Asian or Asian British: any other Asian background</td> <td>6%</td> </tr> <tr> <td>Black or black British: African</td> <td>6%</td> </tr> <tr> <td>Don't know</td> <td>6%</td> </tr> <tr> <td>Mixed: any other mixed or multiple ethnic...</td> <td>6%</td> </tr> <tr> <td>Mixed: white and black African</td> <td>6%</td> </tr> <tr> <td>Prefer not to say</td> <td>6%</td> </tr> <tr> <td>White English, Welsh, Scottish, Northern Irish, or...</td> <td>29%</td> </tr> <tr> <td>White: any other background</td> <td>24%</td> </tr> </tbody> </table>	Category	Sub-category	Percentage	Gender	Female	56%	Male	38%	Other	6%	Age	16 - 25	24%	26 - 35	47%	36 - 45	18%	46 - 55	6%	56 - 65	6%	Orientation	Bisexual	6%	Gay or lesbian	6%	Heterosexual or straight	76%	Prefer not to say	12%	Disability	No	65%	Yes	35%	Religion	Atheism	35%	Christianity	35%	Islam	6%	Judaism	6%	Prefer not to say	18%	Ethnicity	Any other ethnic group	12%	Asian or Asian British: any other Asian background	6%	Black or black British: African	6%	Don't know	6%	Mixed: any other mixed or multiple ethnic...	6%	Mixed: white and black African	6%	Prefer not to say	6%	White English, Welsh, Scottish, Northern Irish, or...	29%	White: any other background	24%
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	Bristol Key Fact 2021 (March 2021 update) document	<p>The population of Bristol is estimated to be 463,400 people and has become increasingly diverse.</p> <p><b>Age:</b> Bristol has a relatively young age profile with more children aged 0-15 than people aged 65 and over. Bristol's 60,300 older people make up 13% of the total population, i.e. 1 in every seven people living in Bristol is aged 65 or over. The median age of people living in Bristol in 2019 was 32.4 years old.</p> <p><b>Race:</b> The proportion of the population who are not 'White British' is at 22% of the total population. The proportion of people living in Bristol who were not born in the UK has increased from 8% to 15% of the total population. In Bristol, at least 187 countries of birth represented and at least 91 main languages spoken by people living in Bristol.</p> <p><b>Religion:</b> In Bristol, there are now at least 45 religions. 47% of population state they are Christian. 37% of the population state they have no religion.</p> <p>This is general population data which shows the general population being affected by the proposal.</p>																																																																

Additional licensing consultation equalities data 2018



BRE Integrated Dwelling Level Housing Stock Modelling and Database for Bristol City Council February 2020

There are 202,911 dwellings in Bristol, 50% are owner occupied, 30% private rented and 20% social rented. Overall the percentage of dwellings in the private rented sector across Bristol is 30% compared to the national average of 19%.

This data reflects that the percentage of the dwellings (private sector landlords and tenants) (30%) may be affected by this policy. Landlords in the private rented sector would be group that would have financial penalties issued on them if they are not complying with the ESSR 2020 which in turn would affect their tenants.

House of Commons Library. Home ownership and renting: Demographics. June 2017

- Households led by younger people are less likely to own their home and more likely to rent privately. 10% of households led by 16-24 year olds own their own home and 65% rent privately. For 25-34 year olds the split is 39% to 42%. Only for households led by someone aged 35 or over do the majority own their home.
- Owner-occupation is most common amongst households led by people who are Indian, White or Pakistani (67%, 66% and 60% of households respectively). Households led by a Black HRP are least likely to be owner-occupiers (29% are).
- Private renting is common amongst people of ethnicities categorised as 'Other' (39%), 'Other Asian' (35%) and 'Mixed or multiple' (28%). Households led by a White HRP are least likely to rent privately (16%).

This data indicates that younger people tend to live in the private rented sector as do some Black, Asian and minority ethnic groups. Landlords in the private rented sector would be group that would have financial penalties issued on them if they are not complying with the ESSR 2020 which in turn would affect their tenants.

<p><u>Quality of Life 2020-21 — Open Data Bristol</u></p>	<p>Of those who rent accommodation in Bristol - disabled residents; Black Asian and minority ethnic residents; non-Christian faith groups; carers; single parents; and those living in the 10% most deprived areas are less likely than average to be satisfied with their landlord.</p> <p>Residents in Bristol who are: younger; disabled; Black Asian and minority ethnic; LGB; from non-Christian faith groups; carers; single parents; with no or fewer qualifications; living in the 10% most deprived areas; and in rented accommodation are less likely to be satisfied with the state of repair of their homes.</p>
<p><b>Additional comments:</b></p>	

## 2.2 Do you currently monitor relevant activity by the following protected characteristics?

<input checked="" type="checkbox"/> Age	<input checked="" type="checkbox"/> Disability	<input type="checkbox"/> Gender Reassignment
<input type="checkbox"/> Marriage and Civil Partnership	<input type="checkbox"/> Pregnancy/Maternity	<input checked="" type="checkbox"/> Race
<input type="checkbox"/> Religion or Belief	<input checked="" type="checkbox"/> Sex	<input checked="" type="checkbox"/> Sexual Orientation

## 2.3 Are there any gaps in the evidence base?

Where there are gaps in the evidence, or you don't have enough information about some equality groups, include an equality action to find out in section 4.2 below. This doesn't mean that you can't complete the assessment without the information, but you need to follow up the action and if necessary, review the assessment later. If you are unable to fill in the gaps, then state this clearly with a justification.

For workforce related proposals all relevant characteristics may not be included in HR diversity reporting (e.g. pregnancy/maternity). For smaller teams diversity data may be redacted. A high proportion of not known/not disclosed may require an action to address under-reporting.

We have limited diversity data about our service users, and citywide and ward level diversity data is unavailable for some protected characteristics e.g. gender reassignment.

Many private landlords and tenants are unknown to us and therefore we do not hold data on their protected characteristics or have limited data. However, we do collect information as part of our proposed licensing consultations. Significant number of private landlords and tenants have completed previous consultation surveys and completed the equalities section of the survey.

## 2.4 How have you involved communities and groups that could be affected?

You will nearly always need to involve and consult with internal and external stakeholders during your assessment. The extent of the engagement will depend on the nature of the proposal or change. This should usually include individuals and groups representing different relevant protected characteristics. Please include details of any completed engagement and consultation and how representative this had been of Bristol's diverse communities. See <https://www.bristol.gov.uk/people-communities/equalities-groups>.

Include the main findings of any engagement and consultation in Section 2.1 above.

If you are managing a workforce change process or restructure please refer to [Managing change or restructure \(sharepoint.com\)](#) for advice on consulting with employees etc. Relevant stakeholders for engagement about workforce changes may include e.g. staff-led groups and trades unions as well as affected staff.

Policy proposed is for actions that are a statutory duty for the local authority. No further consultation carried out.

## 2.5 How will engagement with stakeholders continue?

Explain how you will continue to engage with stakeholders throughout the course of planning and delivery. Please describe where more engagement and consultation is required and set out how you intend to undertake it. Include

any targeted work to seek the views of under-represented groups. If you do not intend to undertake it, please set out your justification. You can ask the Equality and Inclusion Team for help in targeting particular groups.

No further engagement with stakeholders will be carried out. Powers available to use banning orders on individuals who are repeatedly not compliant with their legal obligations and BCC have a statutory duty and/or discretion to place individuals on the rogue landlord database dependent on circumstances, will be used to improve quality of life/housing and do not target any particular group with protected characteristics. Please note as part of the procedure of taking formal legal action in a case, consideration is given to whether or not there are any equalities issues that need to be taken into account as part of the decision making process. Please see attached 'checks and balances forms'.

### Step 3: Who might the proposal impact?

Analysis of impacts must be rigorous. Please demonstrate your analysis of any impacts of the proposal in this section, referring to evidence you have gathered above and the characteristics protected by the Equality Act 2010. Also include details of existing issues for particular groups that you are aware of and are seeking to address or mitigate through this proposal. See detailed guidance documents for advice on identifying potential impacts etc. [Equality Impact Assessments \(EqIA\) \(sharepoint.com\)](#)

#### 3.1 Does the proposal have any potentially adverse impacts on people based on their protected or other relevant characteristics?

Consider sub-categories (different kinds of disability, ethnic background etc.) and how people with combined characteristics (e.g. young women) might have particular needs or experience particular kinds of disadvantage.

Where mitigations indicate a follow-on action, include this in the 'Action Plan' Section 4.2 below.

<b>GENERAL COMMENTS</b> (highlight any potential issues that might impact all or many groups)	
Please note as part of the procedure of taking formal legal action in a case Private Housing consider whether or not there are any equalities issues that should be considered and actions that should have been taken when deciding whether formal action is to be taken/appropriate/determining level of financial penalty. See attachments – Checks and balances form.	
<b>PROTECTED CHARACTERISTICS</b>	
<b>Age: Young People</b>	Does your analysis indicate a disproportionate impact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Potential impacts:	Traditionally more younger people tend to live in the private rented sector.
Mitigations:	See general comments. Issuing of banning order and placing them on the rogue landlord database would be on the landlords and not tenants themselves so impact on tenants should not be significant.
<b>Age: Older People</b>	Does your analysis indicate a disproportionate impact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Potential impacts:	More likely to be unpaid career/retired, financial implications that may be a factor. If a landlord is subject to a banning order, there will be an additional cost of employing a managing agent to manage their properties but they will still be getting income from their properties.
Mitigations:	See general comments.
<b>Disability</b>	Does your analysis indicate a disproportionate impact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Potential impacts:	Disability (including hidden impairments and neurodiverse conditions such as Dyslexia, ADHD, Dyscalculia or Autism) may be a factor in not being able to achieve compliance with legislation. There may be financial implications associated with disability status.
Mitigations:	See general comments. It is noted that disabled people are not over-represented in the equalities data available. Audit forms completed prior to enforcement support officers identify when disabled landlords may require reasonable adjustments.
<b>Sex</b>	Does your analysis indicate a disproportionate impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Potential impacts:	
Mitigations:	
<b>Sexual orientation</b>	Does your analysis indicate a disproportionate impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Potential impacts:	
Mitigations:	
<b>Pregnancy / Maternity</b>	Does your analysis indicate a disproportionate impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Potential impacts:	
Mitigations:	
<b>Gender reassignment</b>	Does your analysis indicate a disproportionate impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Potential impacts:	
Mitigations:	
<b>Race</b>	Does your analysis indicate a disproportionate impact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Potential impacts:	See general comments. If English is not a landlord's main language, they may not understand the implications of a banning order and placing them on the rogue landlord database. Some minority ethnic groups are over-represented in the private rented sector. Issuing of banning order and placing them on the rogue landlord database would be on the landlords and not tenants themselves so impact here not should not be significant on tenants.
Mitigations:	See general comments. We will ensure that general communications are written in plain English and include information about how to access translation and interpretation services. Legal notices due to their legal nature are not translated. Individuals are advised to seek legal advice if they do not understand the penalty process or the legal notices.
<b>Religion or Belief</b>	Does your analysis indicate a disproportionate impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Potential impacts:	
Mitigations:	
<b>Marriage &amp; civil partnership</b>	Does your analysis indicate a disproportionate impact? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Potential impacts:	
Mitigations:	
<b>OTHER RELEVANT CHARACTERISTICS</b>	
<b>Socio-Economic (deprivation)</b>	Does your analysis indicate a disproportionate impact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Potential impacts:	Financial implications need to be considered (see above explanation under Older People).
Mitigations:	See general comments.
<b>Carers</b>	Does your analysis indicate a disproportionate impact? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Potential impacts:	Being a carer can be a huge barrier to maintaining employment. Financial implications (See above explanation under Older People).
Mitigations:	See general comments.
<b>Other groups</b> [Please add additional rows below to detail the impact for other relevant groups as appropriate e.g. Asylums and Refugees; Looked after Children / Care Leavers; Homelessness]	
Potential impacts:	
Mitigations:	

### 3.2 Does the proposal create any benefits for people based on their protected or other relevant characteristics?

Outline any potential benefits of the proposal and how they can be maximised. Identify how the proposal will support our Public Sector Equality Duty to:

- ✓ Eliminate unlawful discrimination for a protected group
- ✓ Advance equality of opportunity between people who share a protected characteristic and those who don't
- ✓ Foster good relations between people who share a protected characteristic and those who don't

The equalities screening process used by officers prior to enforcement action aims to eliminate unlawful discrimination, and advance equality of opportunity by removing e.g. communication barriers.

## Step 4: Impact

### 4.1 How has the equality impact assessment informed or changed the proposal?

What are the main conclusions of this assessment? Use this section to provide an overview of your findings. This summary can be included in decision pathway reports etc.

If you have identified any significant negative impacts which cannot be mitigated, provide a justification showing how the proposal is proportionate, necessary, and appropriate despite this.

#### Summary of significant negative impacts and how they can be mitigated or justified:

Financial implications on landlords (some of which may have protected characteristics). Actions under these proposals are justified as actions are in relation to enforcement actions under powers and duties under the Housing and Planning Act 2016.

Mitigations: As part of the procedure of taking formal legal action in a case Private Housing consider whether or not there are any equalities issues that should be considered and actions that should have been taken when deciding whether formal action is to be taken/appropriate.

See attachments – Checks and balances form.

#### Summary of positive impacts / opportunities to promote the Public Sector Equality Duty:

The proposal aims to improve the Private Rented Sector and deter landlords from renting out substandard accommodation.

### 4.2 Action Plan

Use this section to set out any actions you have identified to improve data, mitigate issues, or maximise opportunities etc. If an action is to meet the needs of a particular protected group please specify this.

Improvement / action required	Responsible Officer	Timescale
The Private Housing service is reviewing the data that we are collecting to further improve data collection and analysis.	Richard Johnson / Onn Kee Davies	March 2022

### 4.3 How will the impact of your proposal and actions be measured?

How will you know if you have been successful? Once the activity has been implemented this equality impact assessment should be periodically reviewed to make sure your changes have been effective your approach is still appropriate.

The number of banning orders made and length of banning order and the number of entries on the Rogue Landlord Database can be measured.

## Step 5: Review

The Equality and Inclusion Team need at least five working days to comment and feedback on your EqIA. EqIAs should only be marked as reviewed when they provide sufficient information for decision-makers on the equalities impact of the proposal. Please seek feedback and review from the Equality and Inclusion Team before requesting sign off from your Director<sup>1</sup>.

**Equality and Inclusion Team Review:**

***Reviewed by Equality and Inclusion Team***

**Director Sign-Off:** Donald Graham



<sup>1</sup> Review by the Equality and Inclusion Team confirms there is sufficient analysis for decision makers to consider the likely equality impacts at this stage. This is not an endorsement or approval of the proposal.

Date: 17/12/2021

Revised sign off 20/1/22

Date: 03/02/2022

## Eco Impact Checklist

<b>Title of report:</b> Private Housing Service– Rogue landlord database and time period of a banning order Policy.				
<b>Report author:</b> Andrew Riddell Senior EHO /Jonathan Mallinson Private Housing Manager				
<b>Anticipated date of key decision</b> N/A – Not key decision for Cabinet to note.				
<b>Summary of proposals:</b> The policy documents the procedure that Bristol City Council will follow when it exercises its powers to make, update or remove an entry from the National Database of Rogue Landlords and Property Agents as detailed in Part 2, Chapter 3 of the Housing and Planning Act 2016. The policy outlines the procedure the Council will follow when determining the length of time of a Banning Order, when making a Banning Order application, in accordance with the powers and requirements of Part 2, Chapter 2 of the Housing and Planning Act 2016. This policy will be applied on a case by case basis.				
Will the proposal impact on...	Yes/ No	+ive or -ive	If Yes...	
			Briefly describe impact	Briefly describe Mitigation measures
Emission of Climate Changing Gases?	No			
Bristol's resilience to the effects of climate change?	No			
Consumption of non-renewable resources?	No			
Production, recycling or disposal of waste	No			
The appearance of the city?	No			
Pollution to land, water, or air?	No			
Wildlife and habitats?	No			
<b>Consulted with: No consultation carried out.</b>				
<b>Summary of impacts and Mitigation - <u>to go into the main Cabinet/ Council Report</u></b>				
<p>There are no significant environmental impacts from this proposal. The proposals relate to decision making processes when determining the length of time of a Banning Order, when making a Banning Order application, in accordance with the powers and requirements of Part 2, Chapter 2 of the Housing and Planning Act 2016 and when Bristol City Council exercises its powers to make, update or remove an entry from the National Database of Rogue Landlords and Property Agents as detailed in Part 2, Chapter 3 of the Housing and Planning Act 2016.</p> <p>No mitigation measures are required.</p>				

<b>Checklist completed by:</b>	
Name:	Onn Kee Davies
Dept.:	Private Housing
Extension:	onnkee.davies@bristol.gov.uk
Date:	26.1.22
Verified by Environmental Performance Team	Daniel Shelton 27/01/2022