

**Rogue Landlord Database Reform Consultation - Widening Access and Considering the
Scope of the Database of Rogue Landlords and Property Agents**

Response from ARLA PropertyMark

September 2019

About you

Q1: Are you responding as:

Other – please provide further information

1. ARLA PropertyMark is the UK's foremost professional and regulatory body for letting agents; representing over 9,500 members. ARLA PropertyMark agents are professionals working at all levels of letting agency, from business owners to office employees.
2. Our members operate to professional standards far higher than the law demands, hold Client Money Protection and we campaign for greater regulation in this growing and increasingly important sector of the property market. By using an ARLA PropertyMark agent, consumers have the peace of mind that they are protected, and their money is safe.

Q2: Please provide your name and email address

Timothy Douglas

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Widening Access

Q3: 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?

3. Yes, ARLA PropertyMark thinks that the Database should allow tenants and potential tenants access to the details of rogue landlords and property agents contained within it.

Q4: Please give your reasons for allowing access to the Database.

4. ARLA Propertymark believes that tenant access to the Database should be allowed for the following reasons: It allows tenants to check they are not renting from a known rogue landlord or property agent; it allows tenants to make an informed choice; it will act as a deterrent to rogue landlords and property agents and; for tenant protection.

Q5: Why do you think it is necessary for tenant protection?

5. We believe that the Database must be fully open and transparent in order to protect tenants. This is because, it will provide clear information to tenants renting in the private rented sector and will allow them to make better decisions from whom they rent property. ARLA Propertymark believes that a transparent and open Database is necessary for tenant protection for three reasons. Firstly, it will prevent tenants from unwittingly entering into a tenancy agreement with criminal landlords or agents. Secondly, prospective tenants will be able to check whether their landlord or agent has a criminal record that may affect their rental decision. Finally, landlords and agents require tenants to be referenced from employers, the Database would enable this to be reciprocated thus increasing trust in the sector. By holding information on rogue operators, prospective tenants will have the ability to reference their potential landlord or agent. Whilst most landlords and agents abide by the law and provide safe and decent homes for their tenants, some criminal operators do not, and it is these individuals that tenants need to be made aware of when renting in the private rented sector.

Q6: 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?

6. Yes, ARLA Propertymark thinks that 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.

Q7: Under what circumstances do you think a potential tenant would make use of the Database prior to a tenancy?

7. ARLA PropertyMark believes that a potential tenant would make use of the Database prior to a tenancy for the following reasons: If a tenant had concerns about the property; if a tenant had concerns about a landlord and; as a matter of course or due diligence.

Q8: Under what circumstances do you think a tenant would make use of the Database during a tenancy?

8. ARLA PropertyMark believes that a tenant would make use of the Database during a tenancy for the following reasons: After attempting to have a landlord or agent rectify an issue; as soon as the issue arises and; at the same time as complaining to the local authority.

Q9: Why do you think a tenant would not make use of the Database?

9. ARLA PropertyMark believes that there may be some instances where a tenant would not make use of the Database, for the following reasons: They would complain to the local authority about an issue, the information held on the Database would not rectify the issue, and due to a lack of knowledge. Conclusively, we think this can be limited if the Government conducts a full communications campaign to ensure that the purpose of the Database is correctly advertised within the private rented sector.
10. Tenants may not use the Database as they will complain to the local authority about an issue. This is because, for many years a tenant's first point of call for problems with their rented property was to report any issues to the local authority, we would expect that without a full and effective communications campaign that this would continue and therefore, many tenants may not make use of the Database. Without effective advertising, tenants may bypass the Database to report problems to the local authority or other enforcement authorities.

11. We believe that the information held in the Database needs to be clear in order to help tenants make informed rental decisions. If it is not, tenants are likely to bypass the Database in thinking that the information held on the Database may not be relevant to their issue, even though it is likely to. The proposals contained within this consultation cover many issues that tenants may face with their landlord or agent in the private rented sector and consequently, we believe that this information needs to be disseminated correctly.

12. We believe that tenants may not use the Database due to a lack of knowledge or awareness of what the Database is used for. We believe the chance of this could be limited if the Government commits to a full communications campaign, working with local authorities and representative bodies for private landlords and letting agents to disseminate information to those living in the private rented sector. By raising awareness of the Database within the private rented sector, we believe that this will result in greater tenant take up of the information available to them.

Q10: Who else might benefit from access to the Database? Please also provide your reasons.

13. There are three additional groups that we believe will benefit from access to the Database. Firstly, we think that letting agents will make use of it for recruitment. Secondly, we think that membership organisations and representative bodies for private landlords and letting agents will make use of the Database for enforcement purposes. Finally, landlords seeking the services of letting agents would make use of the Database to vet property managers. Conclusively, we think that many individuals and groups will benefit from access to the Database and it must be made fully open and transparent to the public.

14. ARLA Propertymark believes that letting agents would greatly benefit from access to the database. This is because, they will be able to properly vet potential employees before making any recruitment decision. Currently, as the Database stands letting agents are concerned that because only the local authority can view

entrants, that they may be at risk of hiring a banned letting agent.¹ For this reason, we also think that it is vital that the Database focusses on individuals rather than the agency that employs them. This is because, if an estate agency business receives a Database entry rather than the individual working within it there is nothing stopping the rogue letting agent from setting up another company or working in lettings elsewhere. Placing the focus on the individual agent would limit this. By making the Database open and transparent, access to the details of banned letting agents would be a greater added protection to employers than just receiving employment references.

15. We also believe that professional bodies, such as ARLA Propertymark, and other membership organisations would benefit from access to the Database. We believe that these organisations would make use of the Database in order to assist with member compliance, enforcement and conducting due diligence on applicants for membership. This will work as an additional safeguard in vetting existing members, who may require expulsion or to be reprimanded, and ensure that anyone on the Database is not granted membership to a body that upholds professional standards.

16. Landlords would benefit from access to the Database in order to check letting agents that may potentially manage their properties or provide other lettings services. This could be added protection to eventualities such as misappropriating client money, harassing tenants or not upholding minimum property standards at the detriment of the landlord. As stated above, current access arrangements for the Database do not allow anyone other than local authorities to view the details of entrants. This means that landlords are at risk of instructing banned or rogue letting agents to manage their property, collect their rent or find their tenants. This risk would be minimised should there be public access to the Database.

¹ https://www.theyworkforyou.com/psc/2015-16/Housing_and_Planning_Bill/02-0_2015-11-10a.5.0?s=estate+agents#g5.12

Q11: To meet data protection requirements the Database would require an access portal, which of the following options do you think would be appropriate?

17. In order to meet data protection requirements, we believe that the access portal to the Database should require users to enter their postcode and property number. We think that this is the preferential option because by requiring further personal information it may deter users from accessing the Database. This way, users will only have to provide minimal information in order to access the information. By entering the postcode, it should also have the ability to localise entrants, meaning users can initially look at those within their area. However, we would like to note that this may confuse users as they may think that they need to enter the property details of the property they think may be owned or managed by a rogue landlord or letting agent.

18. We would like to highlight that in the Mayor of London's Rogue Landlord and Agent Checker, personal information is not required to access the data.² If possible, the Government should seek an option whereby users do not have to enter any personal details in order to access the Database.

Q12: 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?

19. Yes, ARLA Propertymark agrees that a redacted version of the landlord's or agents address (local authority area, town, street and partial postcode) should be viewable to tenants.

Q13: Please provide reasons why a redacted version of the landlord/agent's address should be viewable to tenants.

20. ARLA Propertymark agrees that a redacted version of the landlord or agent's address should be viewable to tenants as a matter of safety. Whilst the Database needs to work as a deterrent to offenders, we are concerned that by making the

² <https://www.london.gov.uk/rogue-landlord-checker/your-name-checker>

full home address viewable this could put those living at the address in danger, should someone decide to take the law into their own hands. This is a particular concern if the entrant to the Database has children living within the property. We think that by providing the entrants full name with a redacted address, they are still identifiable without making all of their personal information publicly viewable, thus acting as a deterrent. For this reason, the address should be redacted only.

Q15: Should potential or existing tenants be able to view the landlord/agent's full name?

21. Yes, ARLA Propertymark believes that potential tenants or existing tenants should be able to view the landlord or agents full name.

Q16: Please provide reasons why a potential or existing tenant should be able to view the landlord/agent's full name?

22. We believe that potential and existing tenants should be able to view the landlords or agents full name. This must be in addition to the redacted address of that entrant or business address of the agent as discussed in Q14. We believe this, as the Database needs to work as a deterrent and with redacted information only made available, we do not believe that this will be achieved.

23. By making the information on the Database fully open and transparent, landlords and agents will be given a greater incentive to ensure that they are not involved in any activity that may result in a Database entry and therefore harming their chance of letting property. An open and transparent Database reflects the Mayor of London's Rogue Landlord and Agent Checker.³ This provides the full names, addresses and convictions of entrants and is available to view for the general public. We believe that this model could provide a basis for the public Database moving forward.

³ <https://www.london.gov.uk/rogue-landlord-checker?page=3>

24. We believe that the Government Database must focus on individuals acting as a letting agent as opposed to their employer. This is because, a list that concentrates on individuals will provide more clarity and certainty for tenants and landlords when considering which letting agent they should use. This reflects Banning Orders under the Housing and Planning Act 2016, which apply to the offending individual only (landlord or letting agent) and not their employer. By focussing on individuals, as agents and not agencies, it will also help to prevent the actions of an offending individual from damaging the reputation of companies and the livelihoods of other members of staff who work at a firm and abide by the rules.

Q17: 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?

25. Yes, ARLA Propertymark thinks that a landlord or agent should be required to disclose to an existing or prospective tenant that they are included on the Database.

Q18: 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.

26. We agree that an entrant to the Database should be required to disclose to both existing and prospective tenants that they are included on the Database. We believe that by requiring disclosure to tenants, it will provide an additional level of tenant protection and it will also act as a greater deterrent for landlords and letting agents from offending or reoffending. We believe that this requirement will encourage landlord and agents to ensure that they do not fall foul of their responsibilities, and therefore, face the issue of having to tell tenants that they are on the Database. Disclosure of an entry to the Database would deter tenants from renting property from that individual. Where there is an existing tenant in place, this could also deter them from remaining in the property beyond the agreed term. Ultimately, landlords and agents are not going to want to be in a position where they would have to disclose this information.

27. However, we recognise that this requirement may be difficult to enforce. Therefore, we propose that the How to rent: the checklist for renting in England⁴ guide should be updated to include information for tenants about how to find out if their landlord or letting agent has been entered into the Database. We believe that this will be most effective as it is a mandatory requirement for landlords or letting agents to issue tenants with a 'How to Rent' guide when beginning or renewing a tenancy in England. This would increase the likelihood of tenant awareness both of the Database and of the status of their landlord or letting agent. We would also like to take the opportunity to note that the How to Rent guide should only be updated in a consistent manner at set times throughout the year. This is important because, landlords and letting agents are required to provide tenants with the most up to date version and erratically updating and changing the guide, without this being effectively communicated, can cause issues for landlords during the eviction process.

Q20: Should full details of the offence a landlord or agent has been convicted of, including nature of the offence be viewable?

28. Yes, ARLA PropertyMark believes that the full details of the offence a landlord or agent has been convicted of, including the nature of the offence, should be viewable.

Q22: How long should a landlord or agent remain on the Database?

29. We believe that the landlord or agent should remain on the Database as long as the conviction remains unspent and in line with the Rehabilitation of Offenders Act.⁵ We also believe that the local authority may want to reduce the time the information is retained on the Database in line with the offence. For example, where entry to the Database has relied on an agent being expelled from a redress scheme but the issue has since been resolved and they have been enrolled into

⁴ <https://www.gov.uk/government/publications/how-to-rent>

⁵ <https://www.legislation.gov.uk/ukpga/1974/53>

another redress scheme, consequently the Database entry should then be removed.

Widening the scope of the database

Q23: Do you agree with the list proposed additional offences contained at in annex B?

30. Yes, ARLA Propertymark mostly agrees with the list of proposed offences contained in annex B.⁶ However, we are unsure about the blanket application on refused and revoked licences. When considering licence refusals and revocations, and therefore Database entry, we believe this should depend on the circumstance in which the licence has been refused or revoked. For example, if the applicant is known for providing substandard housing, this would warrant licence refusal and Database entry. Contrastingly, where the licence has been refused due to incorrect paperwork being submitted by mistake, we do not believe that this would warrant entry to the Database. To further understand our reasoning, please refer to our response to Q35.

Q24: Do you think that landlords/agents who receive a single civil penalty notice should be included on the Database?

31. No, we do not think that landlords or agents who receive a single civil penalty notice should be included on the Database. This is because, it should remain at two or more civil penalty notices which is consistent with Banning Orders and other legislation. Under the Housing and Planning Act 2016, civil penalties are used as an alternative to prosecution for certain specified offences,⁷ and therefore, we do not believe it would be fair for a single civil penalty to have the same weight as other forms of prosecution in receiving an entry to the Database.

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/819171/Annex_B_Proposed_Offences_List.pdf

⁷https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf

Q25: Where a landlord/agent has been issued with an improvement notice, should they be included on the Database?

32. Yes, where a landlord or agent has been issued with an Improvement Notice they should be included on the Database but only in specific circumstances. Consideration must also be made for the right to appeal against an Improvement Notice, where landlords are given 21 days to appeal the notice. The First-tier Tribunal may then confirm, quash or vary the notice.⁸ If quashed, the landlord should not be included on the Database. Consequently, any entry must only be made after the period to bring an Appeal has passed.

Q26: Please give your reasons why a landlord who has been issued with an improvement notice should be included on the Database.

33. We believe that only in specific circumstances should a landlord or agent who has been issued with an Improvement Notice be included on the Database. This is because, the entry should depend on whether the Improvement Notice has been acted on or not within a reasonable period of time, the severity, the number of occurrences, and the actions of the local authority. Improvement Notices identify hazards (typically Category 1 or 2 under the Housing Health and Safety rating System or HHSRS)⁹, give instruction of how these should be fixed and provide the start and finish date by which the repairs should be completed. If the Improvement Notice has been rectified within the timescales provided by the local authority, we would not warrant an entry to the Database. However, if this has been ignored and not remedied or the local authority has issued emergency remedial action, then there should be a consideration as to whether the landlord or agent should be included on the Database. We do not agree that Improvement Notices for Category 2 hazards should result in Database entry. This is because, Category 1 hazards cause an imminent risk of serious harm whereas Category 2 hazards, such

⁸https://england.shelter.org.uk/legal/housing_conditions/housing_health_and_safety_rating_system/enforcement_option_s#7

⁹ <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>

as an unsteady bannister, only need remedial action and can be deliberately caused by tenants. Further consideration must also be made where a landlord is repeatedly issued with Improvement Notices on separate occasions. Consequently, we would only believe it to be reasonable in the circumstances stated above, for issued Improvement Notices to incur an entry to the Database at the discretion of the local authority.

Q27: Are there any other offences not listed in the annexes that should be included? Please specify and give your reasons for inclusion.

34. We are not aware of any additional offences not listed in the annexes that should be included.

Q28: Should landlord/agents who fail a fit and proper person test be included on the Database?

35. Yes, ARLA PropertyMark believes that those who fail the fit and proper person test should be included on the Database. We believe that this should be under the condition of a standardised fit and proper person test as suggested by this consultation paper. Until the test is standardised, we are concerned that there may be some minor discrepancies in entries to the Database due to inconsistent tests across English local authorities.

Q29: Please give your reasons why landlords/agents who fail a fit and proper person test should be included on the Database.

36. When and if standardised, failure of the fit and proper person test should result in Database entry as it would encompass offences that would deem the landlord or agent as improper to manage property. Failing a standardised fit and proper person test will also create better clarity for local authorities as to when they should make use of the Database which has only received a minimal number of entries to date. In August 2019, a Freedom of Information request revealed that there had only been 12 entrants in the 16 months since the first iteration of the

Database went live.¹⁰ MHCLG has stated that the Database only targets the worst and most persistent offenders, however, with thousands of suspected rogue landlords and agents operating in England many continue operating under the radar. By including failure of a fit and proper person test, which for Mandatory HMO, Selective and Additional Licensing is a legal requirement, we believe that local authorities will be able to identify some repeat and criminal offenders in order to enter them to the Database.

Q30: Should the reason for failing the fit and proper person test be included and viewable?

37. Yes, ARLA PropertyMark believes that the reason for failing the fit and proper person test should be included and viewable. This is because anyone viewing the Database will be able to determine whether the individual who has failed the fit and proper person test has done so due to a housing related offence or a criminal offence. The severity of a stated offence may determine the rental decision of a tenant as the landlord may continue to let other property elsewhere or without a licence within that area. We believe that through this provision it will allow for joined up thinking across local authorities, should the entrant attempt to gain a property licence in another local authority area. This in turn, could save the local authority resources in conducting the fit and proper person test, if the individual had already received an entry to the Database from another local authority and therefore the outcome is already known. In addition to other measures provided by the Database, we think making the reason for failing the fit and proper person test viewable will act as an additional deterrent for landlords and letting agents from offending, and receiving an entry to the Database, as this information would be viewable to all.

¹⁰ <https://www.thisismoney.co.uk/money/buytolet/article-7360733/Governments-rogue-landlords-database-registered-just-TWELVE-offenders-launch.html>

Q31: Would it be helpful to introduce a standardised fit and proper person test?

38. Yes, as iterated throughout this consultation response ARLA Propertymark believes that it would be helpful to introduce a standardised fit and proper person test.

Q32: Please provide further detail on why you think it would be helpful to introduce a standardised fit and proper person test.

39. To align minimum requirements of licence holders across England, ARLA Propertymark believes that a standardised fit and proper person test must be introduced. Currently, inconsistencies exist across English local authorities which mean that someone who may be deemed as not 'fit and proper' in one area, may pass the minimum requirements under another local authority's test. These inconsistencies are typically minor contraventions of housing or landlord and tenant law, meaning that some local authorities are stricter with their requirements than others. Furthermore, isolated incidents and mitigating circumstances sometimes result in landlords or agents failing the test, but this does not necessitate that they would fail in another area. To alleviate this, the fit and proper person test must be standardised across English local authorities.

40. In other sectors, the lack of a standardised fit and proper person test has caused significant discrepancies between the decisions of various local authorities. This has been notable in the private hire car industry, where taxi drivers only require a licence from one local authority to operate across the country and do not need to live in that area since the introduction of the Deregulation Act 2015.¹¹ This is an issue because many local authorities set strict conditions for the licence, but others are more lenient. The result of this is that taxi drivers are known to "shop around" for wherever it is easiest to obtain a licence. As an example, Wolverhampton City Council has increasingly issued new licences since 2015. This has included granting

¹¹ <http://www.legislation.gov.uk/ukpga/2015/20/contents/enacted>

private hire licences to people with serious sexual allegations.¹² This highlights the serious issues that can arise from a lack of a standardised fit and proper person for an individual providing a service. We believe that introducing one standardised test for property licensing would limit any serious discrepancies such as this.

Selective Licensing Scheme

Q34: 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?

41. ARLA Propertymark believes that only in certain circumstances should a landlord or agent who has had a property licence refused or revoked should they be included on the Database. This is because, refusal or revocation could be due to planning enforcement (property is listed) or issues such as inadequate facilities (for example: not enough sinks or kitchen workspace too small), which does not necessarily equate to the landlord or letting agent being a rogue operator.

Q35: 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.

42. We do not believe that in all instances landlords or agents who have had a licence denied or revoked should be included on the Database. This is because, as iterated in our response to Q23, we believe it should only apply where there has been a serious breach of licence or a repeated offence.

43. For this reason, the entry on the Database must be based around circumstances, and on the criteria of the standardised fit and proper person test. We are concerned that if this includes all landlords or agents who have had their licence refused or revoked, poor management practices will result in an entry to the Database. Poor management of a property does not necessarily equate to unlawful

¹² <https://www.bbc.co.uk/news/uk-england-birmingham-45474296>

wrongdoing and could be detrimental to the business of the entrant for a potentially minor problem that doesn't affect their ability to let property.

44. Therefore, only where a landlord or agent is not or is no longer a fit and proper person to manage property should they be included as an entry to the database. These criteria will encompass many aspects of criminal and property-related offences and will ensure that those with lesser reasons for refusal or revocation are not disproportionately punished.

Q36: Should the reason for a licence being denied or revoked be viewable?

45. Yes, once sufficient reasons to warrant an entry to the Database for having a licence revoked or refused have been determined, the reason should be viewable to all users.

Q38: Should a landlord or agent whose property is subject to a management order be included on the Database?

46. No, we do not agree that a landlord or agent whose property is subject to a Management Order should be included on the Database. This is because, where an Order is in place this will allow for the proper management of the property and should not have any negative impact on the tenants. Part 4 of the Housing Act 2004¹³ allows for local authorities to issue Interim and Final Management Orders to ensure that licensable properties under Part 2 and Part 3 of the Act (Mandatory and Additional property licensing) are correctly maintained and managed. The Act also allows for Special Management Orders where the property is a single let and subject to Selective Licensing.¹⁴ Management Orders effectively allow the local authority to act as the landlord of the property, only where new tenancies are created is the consent of the landlord required.

¹³ http://www.legislation.gov.uk/ukpga/2004/34/pdfs/ukpga_20040034_en.pdf

¹⁴ https://england.shelter.org.uk/legal/housing_conditions/houses_in_multiple_occupation/interim_and_final_management_orders#2

47. Where a Management Order is in place the local authority is entitled to collect the rental income from all occupiers to account for the associated costs of taking over the management of the property. This means that the landlord will typically receive no income from the property whilst the Order is in place, and if the collected rent does not recoup the expenditure of the local authority, the landlord is required to fund any excess. The financial losses for receiving a Management Order are considerable. We feel that this is sufficient punishment for the landlord, and entry to the Database is not required to act as a deterrent. In addition, a Database entry may deter potential tenants from renting the property despite the property and its management being adequate. This would result in further loss of rental income that would not necessarily be warranted and could mean further costs incurred if the local authority had charged in excess for the management of the property.

Q40: Should landlords and property agents who are expelled from a redress scheme be included on the Database?

48. Yes, landlords and property agents who are expelled from a redress scheme should be included on the Database.

Q41: Please give your reasons why landlords and property agents who are expelled from a redress scheme should be included on the Database

49. ARLA Propertymark believes that landlords and agents who are expelled from a redress scheme should be included on the Database. However, this entry should only remain up until the point all obligations to the redress schemes have been fulfilled. This reflects the Memorandum of Agreement between The Property Ombudsman (TPO) and The Property Redress Scheme (PRS),¹⁵ whereby if an agent is expelled from one scheme, they must first fulfil the terms of the previous scheme before becoming a member of the other.

¹⁵ <https://www.theprs.co.uk/Resource/ViewFile/134>

50. Typically, agents are expelled from a redress scheme due to a complaint raised by the consumer, the redress scheme issuing a monetary award to the complainant, and the agent not paying this sum. Therefore, acceptance to join the other scheme will usually involve resolving a default to the original scheme. Once the issue has been rectified, and the agent can move to the other redress scheme, we see no further reason for their information to be retained on the Database. If the agent does not comply with this, they cannot join the other redress scheme and therefore cannot legally operate in lettings, in this instance the Database entry would remain until the expulsion has been dealt with accordingly.

Local Authority Access

Q42: 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?

51. No, we do not agree with local authorities having access to information for a longer period than the wider public. This is because, the Database must be open and transparent to all and access should remain equal. After information on the Database times out, it should either be no longer viewable to all, or remain viewable to all and not give preferential access to one party. We believe that there should not be preferential access to the Database for local authorities as this will create a two-tier system whereby the public is at a disadvantage to the public sector. By giving local authorities preferential access, we believe that this hinders the credibility of the Database and does not benefit the tenant as this information is not available for their benefit.

Any further comments

Q44: Is there anything else you would like to add?

52. We believe that the Rogue Landlord and Property Agent Database must be extended to include estate agents to limit rogue individuals from moving into sales

from lettings.¹⁶ A Prohibition Order for estate agents under the Estate Agents Act 1979¹⁷ must also constitute as a Banning Order offence under the Housing and Planning Act 2016,¹⁸ and therefore result in an entry to the Database.

53. The National Trading Standards Estate Agency Team (NTSEAT)¹⁹ has the power to issue estate agents with a Prohibition Order, where the estate agent does not comply with the obligations required by the Estate Agents Act 1979. A Prohibition Order stops the individual from operating as an estate agent. The Prohibition Order is retained on another database held by NTSEAT, and which is available to view by the public, but there is nothing stopping this agent from setting up in lettings instead. In April 2019, NTSEAT expanded to include lettings and is now called the National Trading Standards Estate and Letting Agency Team (NTSELAT). NTSELAT combines Powys County Council by enforcing the Estate Agents Act 1979 across the UK and Bristol City Council enforcing the Tenant Fees Act 2019²⁰ in England. With the introduction of NTSELAT, it makes sense for the information held on letting agents in England to work conjunction with the provisions of the Estate Agents Act rather than as a separate entity and the Database must be amended to reflect this.

54. Furthermore, the official name of the Database states “Property Agents” as opposed to “Letting Agents”, and thus it is sensible for this provision to be extended to include identified rogue sales agents as well as those in lettings. If this the Database is not amended to reflect this, and a banned sales agent could set up in lettings, we believe that this would do little to improve the standards or perception of the industry.

¹⁶https://www.theyworkforyou.com/psc/2015-16/Housing_and_Planning_Bill/02-0_2015-11-10a.5.0?s=estate+agents#g5.12

¹⁷ <https://www.legislation.gov.uk/ukpga/1979/38>

¹⁸ <http://www.legislation.gov.uk/ukpga/2016/22/contents/enacted>

¹⁹ <https://www.nationaltradingstandards.uk/work-areas/estate-agency-team/>

²⁰ <http://www.legislation.gov.uk/ukpga/2019/4/contents/enacted>