

GREATER **LONDON** AUTHORITY

██████████
(by email)

Our reference: MGLA170620-5148

Date: 10 August 2020

Dear ██████████

I write in response to your further correspondence of the 15 July 2020 relating to your request for information from the 17 June 2020.

You have expressed dissatisfaction with the way that the Greater London Authority (GLA) responded to your initial request (MGLA170620-5148). I am now responding to you under the GLA's internal review procedure.

On 17 June 2020 you submitted the following request:

Hello, I am researching Private Rented Sector enforcement across London's 32 boroughs at UCL and in collaboration with Generation Rent. I have been in contact with several boroughs' PRS officials, and with the GLA's ██████████.

*I understand that the information in the Rogue Landlord and Agent Checker expires from public access, as described in this GLA guide:
(https://www.london.gov.uk/sites/default/files/190515-policies_and_procedures_update_clean_1.pdf).*

I also understand that much of the information is retained for up to 10 years on a private basis.

As part of my analysis of the efforts of boroughs to regulate the PRS, I was hoping that you might release the privately held information on PRS enforcement to me, but with all personal information redacted.

I.e. to be sent the:

- enforcement action*
- enforcement authority*
- enforcement date*
- fine*
- offence*
- description*

Given this anonymisation and the lack of any way to trace the data to expired offences, and given the nature of my research in improving PRS regulation, I hope that you will consider my request.

The GLA responded to your request on 14 July 2020, as follows:

'The Checker is administered by the GLA, and London boroughs have agreed to participate by uploading data on enforcement against landlords and agents to the Checker. As such, the London boroughs own / hold the data you have requested and the GLA does not hold the information for the purpose of the Act. The GLA is therefore not able to disclose the information from the private tier of the Checker that you have requested.

The policy and procedure for the Checker contains more information about the GLA's role, and the distinction between the Checker's public and private tiers, which you can view here:

https://www.london.gov.uk/sites/default/files/190515policies_and_procedures_update_clean_1.pdf

You may wish to consider writing to London boroughs to obtain this data:

<https://www.london.gov.uk/in-my-area>

You can also download data from the public tier of the Checker here:

<https://www.london.gov.uk/rogue-landlord-checker/why-weve-built-rogue-landlord-and-agent-checker>

Your complaint:

On the 15 July 2020 you asked for an internal review, as below:

I am surprised to hear that the data is not held by the GLA. I read the GLA document Rogue Landlord and Agent Checker: policies and procedures before making my request.

The document says

Once retention on the public database has expired, the record will automatically be removed from public view and held only on the private database.

Public records contain the following information:

- *full name of individual or company and company number*
- *type of enforcement action*
- *full address of the rental property*
- *offence*
- *plain English description of the offence*
- *street name and three digits of postcode from the landlord's home address or the company address*
- *amount of fine issued*
- *date of enforcement (sentencing date)*
- *expiry date of record*

The private tier of the database contains the fields above plus the full address of the landlord or agent.

My FOI request was essentially requesting the private tier plus the public tier. The document specifies that the data is "held...on the private database".

I feel that anyone reading that document would therefore assume that the GLA does indeed hold this data, since the document says that it is held and refers to one private database.

Given that the GLA document seems to acknowledge that the GLA does hold the information requested, please could you explain why you feel that the GLA does not hold the data under the purposes of the Freedom of Information Act, quoting relevant sections where appropriate?

Internal Review:

Please be advised that the GLA does not hold the information which you have requested under section 1 of the Freedom of Information Act 2000 (FOIA). This is because although the GLA administer the database, the information held on it is entered on to it by the participating 32 London Boroughs who enter the information themselves through using their own allocated logins and is only reviewable by the GLA on a read only basis.

In the case of *Glen Marlow v The Information Commissioner, EA/2005/0031*, the Tribunal considered information held on a third party's database, where it is capable of being accessed by a public authority under a particular set of subscriber rights, should not be characterised as having been "held" by the public authority.

In their guidance the ICO also stated:

'there could be situations where a number of public authorities have contributed information to a central, electronic repository and could access each other's information, but on a read-only basis. For the purposes of FOIA and the EIR, only information that the public authority had put into the repository would be held.

If a public authority received a request for the contents of the entire repository, it would at the very least be expected to transfer the request to the other public authorities involved'.

As such, the GLA has also entered into a Data Sharing Protocol, which applies the principle in 'Glen Marlowe' and states that '*For the purposes of information held on the shared checker, information is only considered to be "held for the purposes of FOIA" by the party which was responsible for the original record being entered on to the shared Checker*'. Furthermore, the agreement also states that any such requests should be transferred to the relevant local authorities.

Furthermore, the tribunal in 'Glen Marlowe' found that information selected, downloaded and saved to the public authority's own computer was held, as was information printed off from the database. However, this is not the case here as the GLA, have not in any way selected, downloaded, saved any of the data to any of our internal databases or printed off and stored any of the data.

In accordance with the above guidance and the Information Sharing Protocol in place the GLA has notified all the other LA's who have contributed to the database and as such we have transferred this request to them.

Outcome:

In summary, I uphold our original decision that the GLA do not hold this information for the purposes of the FOIA. As such, please re-direct your request to the other boroughs who have participated to the database with their data. Please be advised that the GLA has also notified the relevant local Authorities and has transferred your request to them as obliged to do.

If following this Internal Review, you remain dissatisfied, you may make a complaint to the Information Commissioner to investigate whether the GLA has complied with the provisions of the Environmental Information Regulations. You can write to the Information Commissioner at the following address:

*Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF*

Further details can be found at <http://www.ico.org.uk/complaints>

Yours sincerely,


Senior Information Governance Officer