

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2106

### Title: London criminal landlords and letting agents database

#### Executive Summary:

Most private landlords operating in the capital offer their tenants a good service. However, the Mayor is concerned that a small number of landlords and their letting agents rent out properties in extremely poor and dangerous conditions, which can lead to exploitation of the tenants concerned and has a detrimental impact on perception of the wider sector. The Mayor is determined to work with London boroughs to tackle this problem.

It is therefore proposed that a new section of the GLA website is developed which includes: a publicly accessible database with details of landlords and letting agents who have been prosecuted by London boroughs for relevant offences; a tool to enable the public to report a landlord or letting agent to their local authority; and information on renters' rights, including where they can seek advice and support. The database will also hold additional information about criminal landlords and agents that will be accessible only to participating local authorities who are given a secure log-in.

The objectives of this initiative are to empower London's renters, support local authority enforcement work and send a strong message to criminal landlords and letting agents that their behaviour will not be tolerated in the capital.

This decision approves the principle of the project, expenditure of up to £150,000, and the procurement of services to develop the database and related IT, and to promote the initiative to London's renters.

#### Decision:

That the Mayor approves:

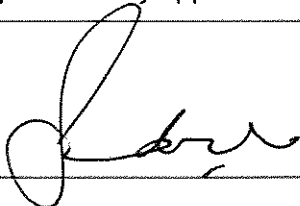
- the principle and subsequent development of a publicly accessible database holding information on prosecutions of landlords and letting agents for relevant offences by those London boroughs signed up to the initiative; and
- expenditure of up to £150,000, and the procurement of services, to develop and promote a London criminal landlords and letting agents database during 2017/18.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

4/4/17

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 Around 30 per cent of Londoners (approximately two million) live in the private rented sector (PRS), far above the national average of 19 per cent. Most private landlords operating in the capital offer their tenants a good service, though a small number rent out properties in extremely poor and dangerous conditions. This can lead to exploitation of the tenants concerned and has a detrimental impact on perception of the wider sector. Local authorities have the statutory responsibility and powers to enforce standards and conditions in the sector. It is estimated that across the capital there are currently several thousand landlords who have been prosecuted by London boroughs and have unspent convictions. However, given the lack of resources within London boroughs to take enforcement action, the true level of criminality among landlords operating in the capital is likely to be far higher than this. The number of prosecutions across boroughs also varies widely, with variations not necessarily related to the size or nature of the local PRS.
- 1.2 The Mayor is committed to improve the PRS through, amongst other steps, 'naming and shaming' rogue landlords through information available to the public online. Some local authorities in London are already engaged in activity to 'name and shame' landlords they have prosecuted for serious offences. This is especially true for those that have introduced discretionary private rented sector property licensing schemes under the provisions of the Housing Act 2004. Prosecution activity in London is increasing significantly alongside the proliferation of this type of licensing scheme. However, according to London boroughs, it remains low compared to the scale of the criminality in the PRS. This is because prosecuting landlords is resource intensive, time consuming and risky, and many local authorities struggle to fund this work due to overall budget constraints. The Mayor therefore wishes to support local authorities by ensuring that their efforts are as well publicised as possible and act as a deterrent to criminal operators in the PRS.
- 1.3 It is proposed that, in order to fulfil the Mayor's commitment in this area, a new section of the GLA website is created containing:
- a publicly accessible database containing information about landlords and letting agents who London boroughs have prosecuted for relevant offences (listed in appendix I). This information will be provided, and kept up to date, by the boroughs. Members of the public will be able to view a limited number of details about landlords and letting agents with relevant unspent convictions. Boroughs who contribute to the database will be able to view more detailed data submitted by one another. This will be helpful where they are investigating a landlord or agent and would like to find out whether any other council has taken action against them. There will also be an option for landlords and agents to report any information on the database which they believe to be inaccurate;
  - a tool for members of the public to report to their borough a landlord or letting agent they suspect of certain criminal activities related to housing; and
  - information pages for renters detailing where they can get assistance if they have a problem with their landlord.
- 1.4 This initiative will have a target launch date of autumn 2017. The aim is that by this point the database will contain information on landlord and agent prosecutions of relevant offences from six boroughs. After this, all London boroughs will have the opportunity to participate.
- 1.5 Ahead of autumn 2017, GLA officers will focus on the detailed work needed to get the project up and running. This includes the content of the information in the database, the design and delivery of the database, the development of an information sharing agreement between the GLA and boroughs governing how the data will be collected and used, and a notification and representations process for landlords. The GLA will work in partnership with a small number of boroughs to do this, and then expand the offer to join to all boroughs once agreements are in place and the database has been tested. Commitment to participate has been secured from, and an initial meeting has taken place with, the first wave of six boroughs.

- 1.6 The Housing and Planning Act 2016 ('the 2016 Act'), which received Royal Assent in May 2016, provided a power for the Government to create a national database of 'rogue landlords' for use by local authorities. Unlike the proposed Mayoral database, the Government database will not be accessible by the public. The provisions in the 2016 Act regarding the database have not yet been commenced and require secondary legislation to be laid in Parliament in order to set out the relevant detail of the scheme. The timescale for the delivery of the proposed Government database is therefore not yet known. GLA officers are working with DCLG to develop joint or complementary systems and processes.
- 1.7 The Mayor is asked to approve the development of a publicly accessible database, holding information on prosecutions of landlords and letting agents for relevant offences by those London boroughs signed up to the initiative.
- 1.8 The Mayor is asked to approve a budget of £150,000 for this project. This figure includes the cost of procuring a developer to build the database, as well as promotional activity leading up to and following the launch.
- 1.9 The developer's key deliverable will be the database. They will be required to develop the following key functionality:
- **upload:** to enable the automated upload to the database of landlord and agent prosecution records by boroughs, using individual logins
  - **search:** to enable searches by name, first line of address or postcode
  - **data reporting:** to enable the production of performance reports by variable (for example, to see the number of records by borough and how this changes over time)
  - **auto-removal:** to enable the automated deletion of a record once a conviction has reached its expiration date (each record on the database will include the date and length of conviction)
  - **representations:** to signpost landlords and agents to the representations process, and to enable GLA officers to suspend (temporarily remove) records from public view and then reinstate them, as appropriate
  - **reporting tool:** to enable tenants to report a landlord or letting agent they suspect of criminal activity. The form will request information on the property address and complaint, and automatically redirect this information to the enforcement team within the relevant local authority
  - **tiers of access:** to enable different users to view different levels of information. It is anticipated that the first tier, available to the public, will offer a limited range of details, potentially including landlord name, rental property address, and some details of the offence committed. The second tier is likely to offer a more comprehensive set of information to participating London boroughs, including civil penalty notices and historic convictions.

## 2. Objectives and expected outcomes

- 2.1 This initiative will be a first step towards making landlords and agents more accountable to renters and enforcement bodies. It will send a strong message to landlords, councils and renters that the Mayor is willing to do everything he can in this area to crack down on criminal practice in the sector. Its three main objectives are:
- to support local authorities in their enforcement efforts and to increase awareness amongst renters and landlords of the work that councils are doing locally to crack down on criminal behaviour
  - to empower renters by allowing them to check a list of criminal landlords prior to renting, by offering them a simple way to report criminal practice in the sector, and by giving them greater information about their rights and where they can seek assistance
  - to send a clear message to criminal landlords and letting agents across London that successful prosecution for relevant offences will result in them being 'named and shamed' across London, making it harder for them to operate 'under the radar'.

- 2.2 Measurable performance indicators will be developed once the detailed work with the first wave of boroughs is complete.

### 3. Equality comments

- 3.1 Any decisions made with regard to this initiative will comply with the Equality Act 2010 and, in particular, the requirements of the Public Sector Equality Duty as set out in section 149(1) of the Equality Act 2010.

This provides that, in the exercise of their functions, public authorities must have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The obligation in section 149(1) is placed upon the Mayor, as decision maker. Due regard must be had at the time a particular decision is being considered. The duty is non-delegable and must be exercised with an open mind.

Equalities considerations will be taken into account by the GLA in connection with all of the work procured.

In improving standards and conditions in the private rented sector this policy will be of benefit to people with several of the protected characteristics provided for in the Equalities Act 2010 such as:

- age (70 per cent of private renters are under 45)
- race and ethnicity (63 per cent of London's private renters were born overseas)
- pregnancy and maternity (30 per cent of households living in the private rented sector now have dependent children).

### 4. Other considerations

The table below outlines the risks posed by this initiative, the level of risk, and the action GLA officers will be undertaking to mitigate.

| Risk description  | Rating      | Mitigating action   |
|---|-------------|---|
| <p>Lack of participation by a critical mass of boroughs in the second wave due to:</p> <ul style="list-style-type: none"> <li>• the amount of work involved in uploading their landlord and agent prosecution information to the database.</li> <li>• the imminent government database</li> <li>• lack of interest</li> </ul> <p>resulting in coverage not being comprehensive.</p> | Medium risk | <p>Initial discussions with boroughs indicate an appetite from a wider range of boroughs to be involved in the initiative.</p> <p>The database will be designed in partnership with the first wave of boroughs and will seek to minimise the burden on boroughs participating.</p> <p>The GLA is working closely with DCLG to streamline work on our respective databases, and minimise duplication of effort by boroughs.</p> <p>Borough participation will be encouraged through a new Mayoral PRS forum for borough enforcement teams.</p> |
| Insufficient budget.  |             | Cost estimates for the development of the database and for marketing have been provided by GLA experts in these areas, with a small element of contingency built in.  |

|  |  |  |
|--|--|--|
| The database is not fit for purpose.                                       |  | There will be a robust specification, close project management and extensive user testing. |
| Use of the database and other aspects of the initiative by tenants is low. |  | A robust marketing and promotion strategy will be developed and implemented.               |

## 5. Financial comments

This decision seeks approval to spend up to £150,000 to develop and promote London criminal landlords database. These funds are available from Housing and Land's Management and Consultancy budget and will be expended in the 2017/18 financial year.

## 6. Legal comments

- 6.1 The decision requested of the Mayor is approval for the development of a publicly accessible criminal landlord database, holding information on all prosecutions of landlords and letting agents for relevant offences by those London boroughs signed up to the initiative and for expenditure of £150,000 and the procurement of services to develop and promote the database.
- 6.2 The establishment of the database is permissible under section 30(1) of the Greater London Authority Act 1999 ('the GLA Act') if the Mayor considers that doing this will further one or more of the Authority's principal purposes of: promoting economic and wealth creation, social development or the promotion of the improvement of the environment in Greater London.
- 6.3 The proposals for the database on landlords' relevant convictions will further the Authority's aims for promoting both economic and social development in Greater London. The Authority would be seeking to ensure that the PRS operates in a fairer and more transparent way and that tenants are protected from exploitation by unscrupulous landlords.
- 6.4 In formulating the proposals set out above in respect of which a decision is sought, officers have complied with the GLA's related statutory duties:
  - paying regard to the effect that this decision will have on the health of persons in greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the United Kingdom and climate change and its consequences (section 30(3-5)) of GLA Act
  - paying due regard to the principle that there should be equality of opportunity for all people (section 33 of GLA Act)
  - consulting, where appropriate, with appropriate bodies (section 32 of GLA Act)
  - having due regard to the Public Sector Equality Duty under s.149 (1) of the Equality Act (see section 3 for further details).
- 6.5 Under section 34 of the GLA Act, the Mayor is empowered to do anything (including the acquisition or disposal of any property or rights) which is calculated to facilitate, it is conducive or incidental to, the exercise of any functions of the Authority exercisable by the Mayor.
- 6.6 The decision requested for expenditure of £150,000 and the procurement of services to develop and promote the database is an exercise of the incidental powers under section 34 of the GLA Act.
- 6.7 The GLA will need to satisfy the conditions for processing personal and sensitive data under the Data Protection Act 1998 with regard to the operation of the database. The GLA will keep the operation of the database under review with regard to implications of the introduction of the General Data Protection Regulation in 2018.
- 6.8 Any works, services or supplies required must be procured by Transport for London procurement who will determine the detail of the procurement strategy to be adopted in accordance with the GLA's Contracts and Funding Code.
- 6.9 The GLA must ensure that appropriate contract documentation is put in place and executed by the successful bidder(s) and the GLA before the commencement of any works, services or supplies.

## **7. Deputy Mayor's Policy Panel**

- 7.1 This proposal has been informally approved by the Deputy Mayor for Housing and Residential Development outside of the DMP process.

## **8. Planned delivery approach and next steps**

- 8.1 The project will be led and co-ordinated by the GLA Housing and Land Directorate, with support from External Affairs, including the Digital Transformation Team, the Technology Group, the Data Governance Team and TfL legal and procurement. An external agency will be procured to create the database and develop and deliver other necessary additional software for the GLA website.
- 8.2 The GLA Housing Unit will be responsible for ensuring effective ongoing delivery and maintenance of the database and associated aspects of this initiative.
- 8.3 Next steps:

| <b>Activity</b>  | <b>Timeline</b>             |
|--|-----------------------------|
| Develop the information-sharing agreement  | March-July 2017             |
| Publicly announce the Mayor's plans for improving conditions in the PRS (including names of six first wave boroughs) | April / May 2017            |
| Web development agency commences   | End of April 2017           |
| Develop database   | May-July 2017               |
| Sign information sharing agreement between GLA and boroughs  | July 2017                   |
| User test and refine database  | July-September 2017         |
| Plan the launch, including development of a media strategy   | July-September 2017         |
| Publicly launch the database   | September 2017              |
| Maintain the database and associated aspects of the initiative   | From September 2017 onwards |
| Invite and support the remaining boroughs to participate   | December 2017-March 2018    |
| Most London boroughs participating in criminal landlords database  | March 2018                  |

## Appendices and supporting papers:

### Appendix I – List of offences

The list of proposed relevant offences is as follows:

- A. Any offence, whether committed by an individual or a body corporate, for which they have been sentenced in the Crown Court (regardless of whether they were originally convicted in the Crown Court or Magistrates Court) involving:
- fraud under the Fraud Act 2006;
  - the production, possession or supply of all classes of illegal drugs (including poisons) and/or managing premises where drug dealing and/or production takes place; or
  - any offence involving sexual assault or violence specified in Schedule 15 of the Criminal Justice Act 2003.
- The offence must have been committed:
    - at any residential premises in England, or in the local area of those premises; or
    - in relation to such residential premises.
  - In either case, the offender, or a person associated<sup>1</sup> with him, must have owned or been involved in the management<sup>2</sup> of the residential premises concerned at the time the offence was committed;
  - In addition, neither the offender or the associated person must occupy the residential premises as their main residence and the offence must relate to the tenant or the residential premises;
- B. Any offence, whether committed by an individual or a body corporate, for which the offender has been sentenced in the Crown Court (regardless of whether they were originally convicted in the Crown Court or Magistrates Court) that was committed against or in conjunction with:
- any person who was residing at the property owned by the offender
  - other than a person associated with the offender;
- C. An offender has been convicted of a 'relevant housing offence', (regardless of whether that was in the Crown Court or Magistrates Court)

A 'relevant housing offence' is a conviction for any of the following offences:

- Illegally evicting or harassing a residential occupier in contravention of the Protection from Eviction Act 1977 or the Criminal Law Act 1977;
- Continuing to let to an illegal immigrant, resulting in an offence under Part 3 of the Immigration Act 2014, or;
- Prosecution for failure to comply with any notice issued under the Town and Country Planning Act 1990
- Any action taken under the Proceeds of Crime Act
- Prosecutions for multiple breaches of the HMO management regulations provided for in s234 of the 2004 Housing Act
- Banning Order offences under the 2016 Housing and Planning Act (to be set out in regulations)
- Any of the following offences under the Housing Act 2004 :
  - Failure to comply with an Improvement Notice (section 30);

<sup>1</sup> Associated person is defined at section 178 of the Housing Act 1996

<sup>2</sup> "Involved in the management of" to be defined

- o Offences in relation to licensing of Houses in Multiple Occupation (HMOs) (section 72);
- o Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- o Allowing a HMO that is not subject to licensing to become overcrowded (section 139);
- o Failure to comply with management regulations in respect of HMOs (section 234);
- o Being issued with a prohibition, demolition or interim management order under the 2004 Housing Act;
- o Prosecution for failure to comply with a statutory notice under 2004 housing act;
- o Prosecution for failure to license under 2004 Act;
- o Prosecution for breach of license under 2004 Act;
- o (both offences for Mandatory HMO, Additional and Selective licenses);
- o Granting of a Special Interim Management Order.



**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

**Part 1 Deferral:****Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason: The budget for contracted services is identified within this paper, disclosure at this point would prejudice, potentially, genuine competition for the services and impact adversely on the GLA's ability to secure value for public money.

Until what date: 30 April 2017 (when the contract will have been awarded)

**Part 2 Confidentiality:** Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form -NO**

**ORIGINATING OFFICER DECLARATION:**

Drafting officer to  
confirm the  
following (✓)

**Drafting officer:**

Rhona Brown has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

**Sponsoring Director:**

David Lunts has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

James Murray has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on the 3rd April 2017.

**EXECUTIVE DIRECTOR, RESOURCES:**

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature

*M. D. Bellamy*

Date

3.4.17

**CHIEF OF STAFF:**

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

Approved by David Bellamy  
by email

Date

4.4.17

