

Rogue Landlord and Agent Checker: policies and procedures

This guidance is produced by the GLA.

The Rogue Landlord and Agent Checker ('the Checker') is a first step towards making the private rental market in London operate in a fairer and more transparent way for tenants.

There are three parts to the Checker:

- the public tier - a list of private landlords and agents who have faced certain enforcement action. The types of enforcement action are described below. This is a publicly available list;
- the private tier – a database accessible only to London boroughs and the London Fire Brigade ('LFB') containing a greater range of enforcement actions with records viewable for a longer period; and
- reporting tool – this is a facility to enable private tenants to make a complaint about a landlord or agent to their local authority.

Purpose and objectives

The aims of Checker are to:

- empower private tenants to check their landlord or agent before they sign a rental agreement;
- facilitate better information sharing between enforcement authorities, improving enforcement action against bad landlords and agents who operate across London; and
- provide a quick and easy way for tenants to make a complaint to a London borough.

Legal basis for the Checker

The GLA operates the Checker pursuant to the Mayor's powers under section 30 of the Greater London Authority Act 1999.

The local authorities in London signed up to the Checker have a general power of competence, enabling them to do anything that an individual may do (Localism Act 2011). Local authorities also have a power to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions (Local Government Act 1972).

How does this Checker comply with the GDPR and the Data Protection Act 2018?

June 2021

Information about your enforcement action constitutes your personal data and is being processed in accordance with the General Data Protection Regulation 2016/679 (GDPR) and the Data Protection Act 2018.

The relevant London borough is the 'controller' of your personal data and is responsible for ensuring it is processed fairly and lawfully and in accordance with the principles of the GDPR and the Data Protection Act 2018. The GLA is the 'processor' and shall at all times process personal data only as instructed to do so by the controller.

The processing of personal data is only considered to be lawful if a legal basis under Article 6(1) of GDPR applies. The legal basis under Article 6(1)(e) of GDPR and section 8(c) of the Data Protection Act 2018 applies to the processing of personal data under the Checker.

The processing of data relating to criminal convictions and offences must also meet the requirement in Article 10 of GDPR. The legal basis under paragraph 6 of Schedule 1 to the Data Protection Act 2018 applies to the processing of data relating to criminal convictions and offences.

More information about the legal basis for the processing of this data can be found in the privacy notice of the enforcement authority, which you can find on their website. The privacy notice for the GLA [can be found here](#).

Participants and roles

The Checker is operated by the Greater London Authority ('the GLA') on behalf of the Mayor of London. All London boroughs, the LFB and the two consumer redress schemes¹ ('the enforcement authorities') have agreed to participate in the Checker by providing data on enforcement action against landlords and agents for the purposes of adding to the Checker.

In terms of the application of data protection law to the Checker, the enforcement authority is the data controller and the GLA is the data processor. The data controller is responsible for the accuracy of the data. The GLA's role as a data processor reflects its role in providing the Checker as a service to the enforcement authorities, to help them publicise their enforcement.

The records are added to the Checker by the enforcement authority who carried out the enforcement. The relevant enforcement authority makes the decision to upload to the Checker details of all enforcement action from the previous 10 years (further detail below).

Record types

Each enforcement action constitutes one record on the Checker. For example, where a landlord has been convicted of three different offences at a property, there will be three individual records on the Checker.

¹ The Property Redress Scheme, The Property Ombudsman
June 2021

MAYOR OF LONDON

The following table provides an overview of the various types of enforcement action which can be added to the Checker and retention policies for each.²

Enforcement action	Public tier	Max public retention	Private tier	Max private retention
Criminal conviction	Yes	Until spent	Yes	10 years
Civil penalty (Housing and Planning Act 2016) ³	Yes – Penalties of £500 or more	One year	Yes – No threshold	10 years
Civil penalty (Trading standards)	Yes – Penalties of £500 or more	One year	Yes	10 years
Conditional discharge	Yes	Length of discharge	Yes	10 years
Criminal caution	No	N/A	Yes	10 years
Redress scheme expulsion	Yes	Three years or length of expulsion where this is given	Yes	10 years
London Fire Brigade enforcement notice	No	N/A	Yes	10 years
London Fire Brigade prohibition notice	Yes	Three years	Yes	10 years

Some criminal conviction records may display to the public as a £0 fine. As set out above, a landlord may be prosecuted for multiple offences. For example, a landlord may have failed to get the correct licence for their property *and* failed to make improvements to the house when instructed to do so by the council. In this instance, the landlord would receive two convictions and these would be inputted as two records on the Checker. At the time of sentencing, the Judge may choose to issue a fine for each of the convictions, or a combined

² Corporate offenders will be treated the same as individual offenders in terms of retention periods for ‘spent’ convictions, notwithstanding that the legislation for ‘spent’ convictions does not apply to corporate bodies.

³ The following Local Authorities participating in the Checker have instructed the GLA to upload to the public tier of the Checker any civil penalties issued under the HPA of £500 or above: Barking and Dagenham, Bexley, Camden, City of London, Croydon, Enfield, Greenwich, Hammersmith & Fulham, Harrow, Havering, Hillingdon, Haringey, Kensington & Chelsea, Lambeth, Lewisham, Newham, Redbridge, Richmond upon Thames, Tower Hamlets, Waltham Forest, Wandsworth and Westminster. These are the Local Authorities participating in the Checker who are currently using civil penalties issued under the Housing and Planning Act 2016 as an enforcement tool. There will be no threshold for civil penalties uploaded to the private tier.

fine covering multiple convictions. If a combined fine has been issued, the fine will be displayed against the first record and then £0 displayed for the subsequent records.

Retention periods for records

The retention periods on the Checker default to those outlined in the above table. Retention periods cannot exceed those set out above.

The enforcement authority can reduce the retention period for their entries if this is considered appropriate e.g. if required to comply with the enforcement authority's internal data protection policy.

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

Data fields

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 (see below)
- expiry date of record

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

Process for data entry to the Checker

The process for adding an entry to the Checker is as follows:

1. The enforcement authority uploads to the Checker details of any enforcement action from the previous 10 years.
2. The maximum limits for retention of the entry are set out in the table above. The enforcement authority has discretion to reduce the retention period for their entries if this is considered appropriate (see further detail above).
3. The retention period starts from the enforcement action date. This is:

- the sentencing date; or
 - the date the final notice was served; or
 - in the case of civil penalties⁴, the enforcement action date should continue to be the date the final penalty notice is issued unless the penalty is appealed to the FTT. Where there is an appeal, the enforcement action date is, the date of the FTT's decision to dismiss or strike out the appeal or the date the appeal is withdrawn.
4. The GLA sends a notification letter to the landlord or agent informing them that their details will be uploaded to the Checker. The letter will invite the landlord or agent to make representations explaining why their details should not be added to the Checker. The landlord or agent must do so within 14 days.
 5. If no representation is received, the record will be published on the Checker after 14 days.
 6. Representation should be emailed to representations@london.gov.uk. Representations without full supporting evidence will not be considered. The GLA cannot advise on what supporting evidence to provide; it is up to the landlord or agent to decide what proof is appropriate. Once received, the GLA will register a representation against the record and upload the email and supporting evidence to the Checker. This will notify the enforcement authority that the representation has been received.
 7. The record will not be published on either the public or private tier of the Checker during this 14 day period.
 8. The representations must meet one of the following exceptional criteria:
 - naming on the Checker carries a risk of personal harm to you or your family;
 - there are national security risks associated with naming you; or
 - there are other factors which suggest that it would not be in the public interest to name you.
 9. The relevant enforcement authority will consider the representations in accordance with these exceptional criteria. It is solely the decision of the enforcement authority. There are four possible outcomes after consideration of representations:
 - representations are accepted and the entry is not published on either the public or private tier of the Checker;
 - decision to discontinue publication on the public tier, but publish entry on private tier;

⁴ This includes civil penalties issued under the Housing and Planning Act 2016, the Consumer Rights Act 2015 and the Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014.

- amend the proposed entry e.g. to correct an inaccuracy such as an out of date address; or
- reject the representations and proceed to publish the entry on the public and private tiers of the Checker

10. The GLA will then generate a decision letter. This letter will initiate a 14-day period. Once this period has expired, the record will be published on the Checker if the representations have been rejected.

Late representations will be considered. However, where a representation is received after the record has been published, this record will not be withdrawn from publication while the representation is considered and a decision taken.

Once a decision has been made there is no additional route for representations. No further representations will be considered unless circumstances change.

Appeals against convictions and civil penalties

A criminal conviction with a pending appeal will not be withdrawn from the Checker while the appeal is being considered. If the conviction is successfully overturned in court, the landlord or agent should alert the local authority and the GLA at the earliest opportunity. Once the local authority has confirmed the successful appeal, the record will be permanently deleted from both tiers of the database.

A civil penalty⁵ will not be added to the Checker until the period for an appeal against the final notice has expired. Any civil penalty with a pending appeal will not be added to the Checker while the appeal is being considered. If an appeal is brought and dismissed, the civil penalty will be added to the Checker once the time limit for any further appeal has expired.

Deletion

Once a record has expired on the private tier of the database, it moves into a folder for permanent deletion. If an enforcement authority has decided to remove a record from both tiers of the database after a representation has been received, the record would also automatically move into the permanent deletion folder. The GLA monitors this folder daily and will manually approve permanent deletions from the database. Enforcement authorities can also permanently delete one of their own records for any reason they deem appropriate, for example when a conviction is overturned at appeal. Deletion removes all trace of the record from the database, including any residual audit trail.

⁵ This includes civil penalties issued under the Housing and Planning Act 2016, the Consumer Rights Act 2015 and the Redress Schemes for Letting Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014.