

**Report for:** Cabinet Member Signing

**Title:** The London Landlord and Letting Agent Watch List

**Report authorised by :** Stephen McDonnell Interim Director Commercial Operations

**Lead Officer:** Lynn Sellar, 0208489 5242, lynn.sellar@haringey.gov.uk

**Ward(s) affected:** All

**Report for Key/  
Non Key Decision:** Key Decision

## **1. Describe the issue under consideration**

- 1.1 The 'London Criminal Landlord and Letting Agent Watchlist', is a commitment made by the current Mayor of London. The Watchlist will sit on the Greater London Authority (GLA) website and will contain details of landlords and letting agents who have acted unlawfully and thus undergone enforcement action by participating partners (London boroughs or the London Fire Brigade) and as a consequence been prosecuted or fined.
- 1.2 This commitment has been realised through an ongoing objective of the Mayor of London's Private Rented Sector Partnership Meetings (The PRS Partnership) attended by a representative from Haringey.
- 1.3 The data base will be accessible in two formats, a front facing page which the public can access displaying a limited range of details. A further platform which will include a wider range of information including historic convictions and other enforcement activity, will be made available to participating partners and the GLA only.

## **2. Cabinet Member Introduction**

- 2.1 The London Landlord and Letting Agent Watchlist will enable information about landlords and letting agents who have acted unlawfully in other boroughs, to be available to Council Officers, to use this information to ensure these people/business are not operating in a similar way in Haringey.
- 2.2 The information provided within the watchlist will provide intelligence that would normally take officers time to establish and will speed up and support enforcement decisions against these landlords, if they are found to be acting unlawfully.
- 2.3 We are all aware that poorly managed private sector dwellings can cause significant problems for the local neighbourhood and the tenants living within them. Problems associated with poorly managed properties include poor waste

management, noise and anti social behaviour, poor housing conditions, over crowding and often a lack of fire safety. The use of legislation within the Housing Act 2004 gives officers within the Housing Improvement Team powers to tackle landlords and letting agents who fail to take their responsibilities seriously and allow their houses in Multiple Occupation (HMO) or rented dwellings to impact on the local community or the tenants themselves.

### **3. Recommendations**

That the Cabinet Member :

- 3.1** Agree to the Council joining the London Criminal Landlord and Letting Agent Watchlist data sharing arrangements.
- 3.2** Authorise the Interim Director for Commercial and Operations in consultation with the Cabinet Member for the Environment, to sign the data sharing procedure, and any subsequent amendment to the procedure arising from amendments to applicable legislation, in particular but not limited to the General Data Processing Regulation.

### **4. Reasons for decision**

- 4.1** Agreeing to the signing of the data sharing procedure will allow authorised council officers within Haringey Council to share and access information on criminal landlords with other partners.

### **5. Alternative options considered**

- 5.1** The London Landlord and Letting Agent Watchlist is a GLA led initiative that will only be available to those London boroughs who sign up to this specific purpose information sharing protocol. There is no alternative database available which holds such information that the Council would be able to access or participate in.

### **6. Background information**

- 6.1** As the private rented sector grows the need to ensure that accommodation within this market is fit for purpose, safe and well managed is a growing expectation of those who rent and live within this sector. The growing demand for rented accommodation may provide an opportunity for those minority landlords who choose to act unscrupulously, take advantage of tenants, and this type of accommodation, which is often aimed at the most vulnerable.
- 6.2** London boroughs have a range of powers (contained in the Housing Acts and other legislation) provided to them to tackle poor housing standards in the private rented sector (including overcrowding, housing conditions, houses in multiple occupation and the selective licensing of private landlords). Failures by private landlords to provide minimum standards and compliance in these areas can result in enforcement action by the boroughs and lead to criminal sanctions.

- 6.3** Private landlords can and do operate across multiple boroughs so that no individual borough has a full picture of the activities of landlords active in its own area.
- 6.4** Tackling rogue landlord and letting agents puts a growing demand on Council resources. The ability for boroughs to share intelligence on criminal landlords and letting agents through the watchlist is a valuable resource that has not in the past been available to enforcing authorities. It will provide participating boroughs with information to allow them efficiently to target and use their enforcement resources. Further, the ability to publicise the actions of an enforcing authority against landlords and letting agents gives tenants and other landlords the opportunity to see that action is being taken against those who choose not to comply.
- 6.5** Participation in a scheme to bring to the public's attention the action taken to tackle poor standards in the private rented sector and the sanctions applied to landlords and agents acting unlawfully, will serve to:-
- raise awareness
  - act as a deterrent
  - contribute to the improvement of housing conditions in the private rented sector, as well as
  - demonstrate that regard has been made for the need to prevent crime, disorder and behaviour which adversely affects the local environment.
- 6.6** The London Landlord and Letting Agent Watchlist initiative falls within the Mayor's power in section 30 of the Greater London Authority Act 1999 (the 'GLA Act') to act on behalf of the GLA to do anything which he considers will further the promotion of economic and social development in Greater London.
- 6.7** The Watchlist has been developed in partnership with a Steering Group, (a collection of six phase one London boroughs) which have met monthly to develop the template, data sharing agreements and technical aspects of the Watchlist.
- 6.8** There are effectively three tiers of user rights to the Watchlist.
- The first is open to the general public on the GLA website,
  - the second is "read-only" access for participating partners to allow officers to view additional enforcement actions and historic convictions, and
  - the third provides upload and editing rights for a small number of officers from the participating partner organisation.

## **7. Contribution to strategic outcomes.**

- 7.1** This links to Priority 3 and Priority 5 with an emphasis on safe housing conditions and links with the Council's Housing Strategy intentions on improving the rented housing sector.

## **8. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)**

## **8.1 Finance**

There are no financial implications related the this report

## **8.2 Procurement**

Strategic Procurement notes the contents of this report. We understand the GLA has already sought legal advice in relation to the publication of this information and therefore have no objections to the recommendation made in this report.

## **8.3 Legal**

**8.3.1** The Assistant Director Corporate Governance has been consulted in the preparation of this report and comments as follows.

**8.3.2** There is no legal reason why the recommendations in this report should not be adopted.

**8.3.3** The Data Sharing Procedure (“the Procedure”) setting out the arrangements for the watchlist takes effect as a contract with the GLA within an overarching Data Protection Protocol between the GLA and the London Boroughs. Officers have considered the arrangements made under the provisions of the Procedure

**8.3.4** The arrangements involve sharing of data relating to the landlords and letting agents much of which is “sensitive personal data” as defined by the Data Protection Act 1998 (“the Act”), as being information as to the commission or alleged commission by the data subject of an offence.

**8.3.5** Processing of all personal data must be fair and lawful, and subject to the provisions of the Act (in particular the Data Protection Principles). Any agreement for sharing of data must comply with the statutory Data Sharing Code of Practice made under the provisions of the Act. Further, the data subject is entitled to know with whom and for what purposes his/her data is being shared.

**8.3.6** Article 8 of the Human Rights Act 1998 gives everyone the right to respect for his/her private and family life among other things, subject to lawful interference with that right where it is proportionate to do so. Compliance with the Act and Code of Practice, however, is likely to assure compliance with the data subject’s Article 8 rights.

**8.3.7** Under the Procedure each individual borough remains the data controller in relation to the data that it shares under the procedure; the GLA will act as a data processor only. Responsibility to the data subject for processing the data therefore remains with the borough.

**8.3.8** In these circumstances, the data controller must impose on the data processor obligations by written contract that it will only act on instructions from it, and that it has equivalent security in place, to protect the data, to that imposed on the data controller.

**8.3.9** Processing of sensitive personal data is subject to additional safeguards.

**8.3.10** By the First Data Protection Principle sensitive personal data can only be processed – shared, in this instance - where at least one condition from each of Schedules 2 and 3 to the Act are satisfied.

**8.3.11** The Procedure sets out the legal basis for the data sharing, including the conditions under Schedules 2 and 3 satisfied by the proposed sharing. It also sets out the procedures, including (i) service of the privacy notice informing the data subject that the data is to be shared both with the public and with other London local authorities and providing a procedure for challenging that sharing and (ii) as to handling of subject access requests whereby the data subject seeks disclosure of the personal data held by the borough(s) in relation to him/her.

**8.3.12** The Procedure also imposes appropriate obligations upon the GLA in relation to security of the shared data including provisions for testing of that security at annual intervals.

**8.3.13** The Assistant Director is satisfied that the Procedure includes all necessary provisions to comply with relevant legislation.

**8.3.14** The Procedure provides that it will be kept under review as and when changes to data sharing activities and to applicable law arise. In particular on 25 May 2018 the General Data Protection Regulation comes into force, imposing some further obligations on data controllers and the Procedure contemplates revision to comply with that Regulation.

#### **8.4 Equality**

The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advance equality of opportunity between people who share those protected characteristics and people who do not
- Foster good relations between people who share those characteristics and people who do not.

The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

The decision under consideration is to sign a data sharing protocol with the Greater London Authority that will enable information about landlords and letting agents who have acted unlawfully in other boroughs to be available to Council Officers, who may use this information to ensure these people/business are not operating in a similar way in Haringey.

We know that poor quality private-rented sector housing disproportionately affects those with protected characteristics. Census data indicates that BAME groups are over five times more likely to be in overcrowded households than those of White British ethnicity. The decision will enable the Council to improve

the quality of private-rented sector housing in Haringey and will thereby have an indirect positive equalities impact.

A full EqlA has not been undertaken by the service. This is on the basis that the proposal is likely to have no direct impact on groups that share the protected characteristics or other disadvantaged groups.

**9. Use of Appendices**  
**N/A**

**10. Local Government (Access to Information) Act 1985**

No Background papers

